

Office 218.245.2112
Fax 218.245.2123

WORK SESSION
REGULAR MEETING AGENDA

302 Roosevelt Street
PO Box 670
Coleraine, MN 55722

A work session of the Coleraine City Council will be held at Coleraine City Hall in Council Chambers at 3:30 p.m. on Monday, April 27th, 2020.

Please note: The doors to City hall will open 15 minutes prior to the meeting and the public is welcome to attend, however, strict social distancing guidelines will be followed. Only six people will be allowed in the gallery at one time; this includes staff.

Some of the City Council members may be participating by telephone. Members of the public may monitor the meeting via telephone conference. To monitor and access the meeting: dial 1-425-436-6378 and enter access code: 282213#. Please note that long distance charges may apply.

The Regular Meeting of the Coleraine City Council will begin at **4:00 p.m.** At said time the Council will consider the following:

Call to order/Pledge of Allegiance

Roll Call

Consent Agenda: Minutes of 4.13.2020
Correspondence
Claims

Approve meeting agenda with any changes or additions.

Public Comments:

Department Heads: Library – Resolution accepting donations
Clerk's Report

Committee/Commission/other: Public Utilities Commission & CBT
Eagle Ridge Golf Course
Planning & Zoning Commission
Greenway Joint Recreation Board
Mt. Itasca Ski Hill

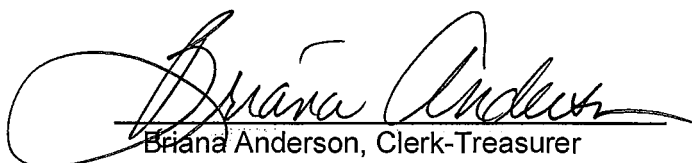
At 5:00 p.m. there will be a public hearing on a proposed amendment to the Land Use Ordinance.

New Business: Conflict of Interest Policy
Extension of Lease for Old Fire Hall

Unfinished Business: Trout Lake Fire Department 2020 Budget
Division of Old Fire Hall property
Sweeper
Moving old Fire Bell

Council Concerns:

Dated this 24th day of April, 2020



Briana Anderson, Clerk-Treasurer

CITY COUNCIL MEETING

A work session was held beginning at 3:30 p.m. and the regular meeting of the Coleraine City Council was held at 4:00 p.m., Monday, April 13th, 2020 in the Council Chambers of Coleraine City Hall with some members attending via telephone conference.

WORK SESSION

3:30 p.m.

Robert Herdman and John Hansen were available at the work session to inform the Council about things they wanted the Council to be aware of and to reiterate what had gone on in years past in regards to the property up in the industrial park. There was discussion around this issue.

The remainder of the work session was used to review materials in the Council packets and to become familiar with the use of equipment and process of the conference call.

REGULAR MEETING

4:00 p.m.

The regular meeting was called to order by Mayor Mandich at 4:00 p.m. followed by the Pledge of Allegiance. A roll call was done by Clerk Anderson. Members present: Councilpersons Stish, Troumbly, Pollard, and Mayor Mandich. Attorney Dimich was also present. At 4:05 Councilperson Sutherland and Public Works Supervisor Bertram joined the conference call.

Moved by Councilperson Pollard, supported by Stish, **to approve the consent agenda which included Council meeting minutes of 3.23.20 and 3.27.20, correspondence, Public Utility claims of \$14,464.78 and regular claims of \$38,072.82.** Roll Call: Ayes: Councilpersons Pollard, Stish, Troumbly, Sutherland, and Mayor Mandich. Nays: none. Motion carried.

Moved by Councilperson Stish, seconded by Troumbly, **to approve the meeting agenda as presented.** Roll Call: Ayes: Councilpersons Stish, Troumbly, Pollard, Sutherland, and Mayor Mandich. Nays: none. Motion carried.

PUBLIC COMMENTS:

None.

DEPARTMENT HEADS

Police Department

Police Chief Mjolsness had presented a written report for Council packets. There were no questions or comments.

Public Works (Street):

Public Works Supervisor Bertram had presented a written report for Council packets as well as a packet of various quotes that he had been asked for. He briefly went over the two attachments (brush & blower) previously looked at. They are designed for an ASV and for them to be used on a CAT or other piece of equipment they would need a special harness. He also mentioned he received quotes for the additional repair of the loader, that hydrant flushing was scheduled for beginning tomorrow (the 14th).

COMMITTEES AND COMMISSIONS/OTHER:

Cotton Beach

Closed for season.

ATTORNEY:

Nothing to report.

NEW BUSINESS:

Covid-19 Temporary Federal Leave Policies – Clerk Anderson explained that these policies are an explanation of the Families First Coronavirus Response Act (FFCRA) that the government passed in response to the Covid-19 outbreak. These policies are designed to layout expectations, provide clarity to employees in how these policies work, the guidelines to access, and the sunset of December 31, 2020 without carryover. The policies also explain that should the 2/3 Emergency Paid Sick leave need to be accessed that the City is allowing them to supplement with 1/3 of any of their accrued leave should they wish to (not required by FFCRA). **Motion** by Councilperson Troumbly with the support of Pollard **to approve the Covid-19 Temporary Federal Leave Policies as written.** Roll Call: Ayes: Councilpersons Troumbly, Pollard, Stish, Sutherland, and Mayor Mandich. Nays: none. Motion carried.

Road Maintenance Agreements with Trout Lake Township – **Motion** by Councilperson Stish, supported by Sutherland **to approve the Road Maintenance Agreements with Trout Lake Township as presented.** Roll Call: Ayes: Councilpersons Stish, Sutherland, Troumbly, Pollard, and Mayor Mandich. Nays: none. Motion carried.

At **4:30p.m.** Mayor Mandich **closed the meeting** for the Council to discuss the proposal of H & H Woodworking. There was discussion around the offer. At **4:39** Mayor Mandich **reopened the regular meeting.**

H & H Woodworking proposal – **Motion** by Councilperson Stish with the support of Pollard **to accept the offer of H & H Woodworking and direct Attorney Dimich to write up a purchase agreement for the property.** Roll Call: Ayes: Councilpersons Stish, Pollard, Troumbly, Sutherland, and Mayor Mandich. Nays: none. Motion carried.

Cotton Beach—delay opening -- Discussion around the possible delay in opening Cotton Beach due to Covid-19 concerns. The beach normally doesn't open till the 2nd week in June. The consensus of the Council was to post for the Lifeguard positions like normal, with an explanation of the possibility that the beach may not open right away. The City will have to wait and see what happens in the future before the opening can be determined. No formal action necessary.

Old Fire Hall Roof – quotes had been provided with three options: A) a completely new roof at a cost of \$35,565.00, B) the repair of all the holes in the roof that are visible including the 4 plastic roof vents that were damaged from snow removal for \$2007.00 and C) replacing and reflashng the 4 vents that were damaged from snow removal at a cost of \$895.00 (covered by insurance). **Motion** by Councilperson Stish, supported by Sutherland, **to direct the work in option B with the difference of \$1112 not covered by insurance to come out of the general fund.** Roll Call: Ayes: Councilpersons Stish, Sutherland, Pollard, Troumbly, and Mayor Mandich. Nays: none. Motion carried.

Letter of support for SF4020 & HF3939—Rising Pit Water – Councilperson Stish explained the resolution approved by WMMPB and why the letter of support to the current legislature was necessary. There is need to get the ball rolling again in asking for funding to address rising pit water issues in two main problem areas: the Canisteo group of idle mines north of Coleraine, Bovey, and Taconite) and the Hill Annex-West Hill-Gross Marble-Arcturus group (north of Marble and Calumet). **Motion** by Councilperson Stish, with the support of Troumbly, **to send the letter of support for SF4020 & HF3989 to our four local legislators from the City.** Roll Call: Ayes: Councilpersons Stish, Troumbly, Pollard, Sutherland, and Mayor Mandich. Nays: none. Motion carried.

Letter of support for SF4017 & HF4090—Hwy 169 Improvements – Councilperson Stish translated the resolution and letter of support to mean a push for legislation to supply funding to finish the 8 miles of Hwy 169 into four lanes. **Motion** by Stish with support from Troumbly **to send the letter of support for SF4017 & HF4090 to our four local legislators from the City of Coleraine.** Roll Call: Ayes: Councilpersons Stish, Troumbly, Sutherland, Pollard, and Mayor Mandich. Nays: none. Motion carried.

Letter of support for SF4021 & HF4091—Hill Annex Mine State Park – Councilperson Stish stated the resolution and support letters are to encourage the legislature to direct the DNR to keep the park open beyond June 2021. **Motion** by Councilperson Stish, supported by Pollard, **to send the letter of support of SF4021 & HF4091 to our four local legislators from the city of Coleraine.** Roll Call: Ayes: Councilpersons Stish, Pollard, Troumbly, and Mayor Mandich. Abstain: Councilperson Sutherland. Nays: none. Motion carried.

UNFINISHED BUSINESS:

Snowblower and sweeper/brush attachments for ASV – tabled until further notice.

Garbage/Recycling cans/Waste Management routes – tabled until further notice.

AFSCME request to suspend grievance timelines – **Motion** by Councilperson Stish, supported by Troumbly, **to mutually agree to suspend grievance timelines for AFSCME represented employees during the peacetime state of emergency with the understanding that either party can revoke this agreement and reinstate adherence to timelines by way of written notice to the other party with a notice period of seven (7) days time.**

COUNCIL CONCERNS:

Stish: Request that the unions be contacted to see when and how to proceed on renegotiation of the labor agreements that expire on December 31, 2020. Clerk Anderson will start with a request to the respective business agents.

Troumbly: None

Pollard: None

Sutherland: None

Mandich: Received a call from Cavour Johnson on the taking down of the trees on the south side of the City Hall building. This cannot be written into the grant request to the Historical Society with the roof and foundation repair. It was suggested that Public Works Supervisor Bertram be contacted and asked how to best get this accomplished. It was also suggested that Plackner could be contacted. In addition, it was stated that beavers had taken down a tree near the peninsula trail that had fallen and needs to be removed. Mayor Mandich will contact Bertram.

Motion by Councilperson Stish with the support of Pollard **to adjourn the meeting at 5:17 p.m.** Ayes: all. Nays: none. Motion carried.

Dan Mandich, Mayor

Briana Anderson, Clerk-Treasurer

Clerk's Report
April 27th, 2020

Working with LMCIT staff on the water damage at the old fire hall. Many issues all the way around. Harry was gone; I was not notified. Had to get info from lessee to pass along to LMCIT to file immediate claim and get an adjuster up to look. You can ask me about this one.

~~~~~  
Spent a great deal of time trying to figure out what parcels of land the City actually owns and what it should be paying Solid Waste Assessments on. We get property tax statements for some and not for others. Many of the valuations are incorrect. Assessor will be reviewing all and making adjustments at my request.

I hand off statements that should be paid by the Itasca Ski & Outing Club, CBT, and the Eagle Ridge Golf Course Management Group.

~~~~~  
Liv submitted a grant request to the MN Historical Society Cultural Heritage Program for Building Assessment for the Public Library. It is a small request for \$5,500 with a match offered of \$1220.26 which would all be in-kind hours put in by City staff. Very similar to the grant received for the City Hall Conditions Assessment. Should the City receive the grant, the RFP's would go out mid-June.

~~~~~  
One of the things you will notice on the agenda is the resolution for acceptance and approval of some donations for the Public Library.

Two things were noted on the audit report that I have to correct. One, I need to start taking Liv's report of revenues and expenditures from the savings and impress accounts she has and get them entered into the main accounting software instead of doing it at the end of the year. By not capturing activity monthly, dollars are being misstated.

Two, all donations, no matter how small will need to be accepted via resolution instead of a motion and documentation in the minutes. So . . . I borrowed and am using a template for a 'donation resolution' that you may see monthly. I believe this is the simplest way of keeping track.

~~~~~  
I did send the revised JPA on the Sweeper to Kevin Odden in Bovey. I did put a note on the e-mail that if Bovey had already purchased a Sweeper, that all this

was probably a moot point. His response back to me was that "Yes, we committed to the purchase of the sweeper so I would say it is a moot point".

I had already informed you that Bovey was going ahead with the sweeper purchase on their own. I sent Kevin the revised JPA that you agreed upon anyway with a note that it was probably moot if they had already purchased the equipment.

Unless you want to go in on the Sweeper that Bovey purchased and continue to negotiate the JPA . . . **what I recommend the City do is send a letter requesting that the JPA for the sweeper be dissolved and request 60% of the sweeper fund balance be returned to Coleraine and put into an equipment replacement fund. In addition, Coleraine should request that the old sweeper be put out on bids with Coleraine receiving 60% of the approved sale proceeds** (both Cities would need to agree to put it out on bid and both would have to approve the sale). Again, **for the proceeds to go into an equipment replacement fund.**

Unless you want to request the old Sweeper back for an agreed upon price, but remember that Harry says it really is shot.

~~~~~

Regarding an equipment replacement fund – It is my belief that the City should set up an account and start budgeting for a certain amount to go into this fund annually. Based on what Harry has said, the city will have quite a bit of equipment that will need replacing in the future.

It would be much better to start setting aside dollars now so that it won't hurt so much.

Another thing to keep in mind, is that we are down to bond payments only on the golf course and public utilities and the dump truck will be paid off in 2021. The PD vehicle will be paid off late 2020, but they are due for a replacement. The City could certainly afford to finance something if it were needed right away. ☺

~~~~~

I have completed the corrective action plan as requested and required because the City received federal funding (USDA-RD loan) by the Minnesota Rural Water Finance Authority. It is attached for your review. This does not require any action other than review on your part.

~~~~~

Jean Cyronek has been coming in and sanitizing City Hall and Council Chambers and doing some general cleaning. It is working out very well.

~~~~~

You will see reference to approving the Trout Lake Fire Department Budget on the Agenda. Since further discussions have not been held regarding the fire

truck contribution, I recommend formally approving their budget (even though after the fact) with a notation that this does not mean the City concurs with the 65/35% payment contribution towards the truck and this is still to be negotiated.

Perhaps a date can be set when all this Covid stuff has settled down to have these discussions.

Something will really need to be worked out relatively soon. Since Coleraine has not yet made any monetary contribution towards the truck payment for this year, the Fire Department will run out of cash flow before the end of the year – a decision one way or the other will need to be made.

The City could decide to make the 65% payment for this year with a disclaimer that the payment percentages are not acceptable are still being negotiated.

This is something still hanging out there that needs to be figured out. 🙄

~~~~~

I have contacted both business agents regarding setting up times and dates for negotiating union contracts.

**Leann Stoll, AFSCME**, would not like to meet earlier than late August or early September, but she is agreeable to getting a date in the calendar now for that. Can you please ***pick out some dates between say August 20<sup>th</sup> and September 11<sup>th</sup> that would work for everyone?*** I will then pass those along to Leann and then get something into the calendar. This way everyone should be able to make themselves available. 🙄

Erik Skoog, **Teamsters**, is agreeable to meeting and starting the process early. The earliest he would want to meet however, is mid-June. Again, ***if we could throw out some dates to him, he will get the process started on his end.***

~~~~~

One of the things on the single audit that needed to be done was for the City to have an official Conflict of Interest Policy.

I used the same template that CBT used to create theirs (also as a result of audit) to create an official policy for the City of Coleraine. There is a brief mention of Conflict of Interest in the Employee Policy Manual but this only applies to employees. We need one that applies to Council, any Commission members, and employees.

I did send this out to you via e-mail for your review. It is also in your Council packets and I placed it on the agenda for discussion and approval.

~~~~~

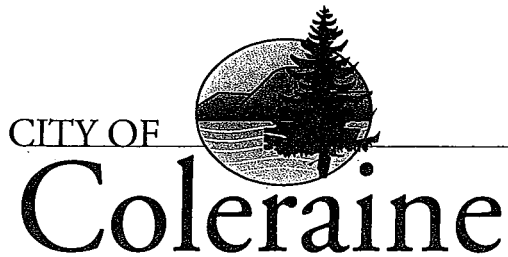
~~~~~  
The City of Coleraine will receive a \$5,000 grant from the Blandin Foundation that was applied for by alumni of the Blandin Community Leadership Program (from both co-horts). The grant is for a rain garden(s) project in collaboration with VanDyke Elementary students, alumni volunteers, and Itasca County Soil & Water as part of the Stormwater Retrofit Project. I have signed the appropriate paperwork today. A resolution accepting the funds is in your Council packet for approval today.

~~~~~  
Harry suggested borrowing (or leasing?) 4 golf carts from the Golf Course for the duration of social distancing recommendations/requirements so that he can accommodate 4 temporary seasonal workers for this summer. Do you think we need a separate agreement? If you think this is a good idea, ***please add to the agenda and make a motion for Harry to make contact and Dimich to write up an agreement.***

~~~~~  
Still need to set up a work session/meeting to discuss budgets, payments from, and current agreement with the Management Group that runs the golf course.

~~~~~  
As always, should you have any questions on anything, please let me know.  
Respectfully submitted,

Briana



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Fax 218.245.2123

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**Corrective Action Plan  
April 16, 2020**

Minnesota Rural Water Finance Authority

Re: Dept. of Agriculture, CFDA 10.760

The City of Coleraine respectfully submits the following corrective action plan for the year ended 2019.

Name and address of independent public accounting firm: Sterle & Co, Ltd., 522 East Howard Street, Hibbing, MN 55746

Audit Period: January 1, 2019 to December 31, 2019

The findings from the “for the year ended December 31, 2019” schedule of findings and questioned costs are discussed below. The findings are numbered consistently with the numbers assigned in the schedule.

**FINDINGS—FINANCIAL STATEMENT AUDIT**

**MATERIAL WEAKNESS**

**2019-001 Lack of segregation of duties**

Recommendation: The City’s council members need to be cognizant of the issue and provide appropriate oversight. Such oversight includes careful review of bank activity as well as general ledger and journal entries. The council members should also periodically perform on site inspections of assets and financial records.

Action Taken: Council member will be asked to physically come in and review the bank statements and bank reconciliations, files for entering deposits, receipt book, general ledger, and journal entries at least on a quarterly basis. Staff will provide additional reporting at Council meetings to cover a review of general ledger and journal entries.

**SIGNIFICANT DEFICIENCY**

**2019-002 Preparation of financial statements and footnote disclosures**

Recommendation: The City staff continue to take advantage of training opportunities in cash basis and GASB presentation methods and models.

Action Taken: City Staff registered for various training opportunities provided by the League of MN Cities specifically designed for City Clerks searching out those that cover the financial accounting software and design of reports for review. Training is on-going. That said, the City does not have the capacity to hire enough qualified staff to serve this function and will continue to engage Sterle & Co., Ltd. to provide this service.

MINNESOTA LEGAL COMPLIANCE

2019-003 Depositories of Public Funds and Collateral Coverage

Recommendation: The City be aware of the situation and notify the bank when larger receipts are anticipated to be deposited.

Action Taken: Clerk will request the bank provide more of a cushion for regular cash flow and will monitor the balances and pledged collateral more closely. In addition, Clerk will better anticipate the larger deposits and make sure the collateral is in place before the deposit is made.

MINNESOTA LEGAL COMPLIANCE

2019-004 Acknowledgement of Claims

Recommendation: Review the statutory requirements.

Action Taken: Clerk will have the appropriate language printed on the checks with the new check order after old stock is depleted.

**FINDINGS – U.S. DEPARTMENT OF AGRICULTURE**

**MINNESOTA RURAL WATER FINANCE ASSOCIATION**

**WATER AND WASTE DISPOSAL SYSTEMS FOR RURAL COMMUNITIES**

MATERIAL WEAKNESS

2019-001 Lack of Segregation of Duties

See finding recommendation and action taken above under 219-001

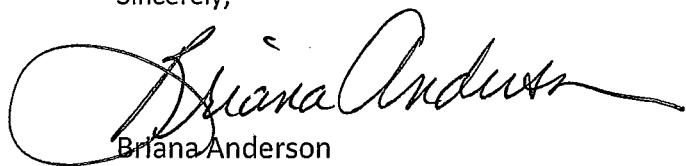
2019-005 Procurement

Recommendation: The City is in the process of reviewing all policies and procedures to develop a manual that includes required verbiage.

Action Taken: As review of policies and procedures is ongoing, a financial procedure and policy manual will be created for Council review and approval. This process will be on-going and encompass several audit periods.

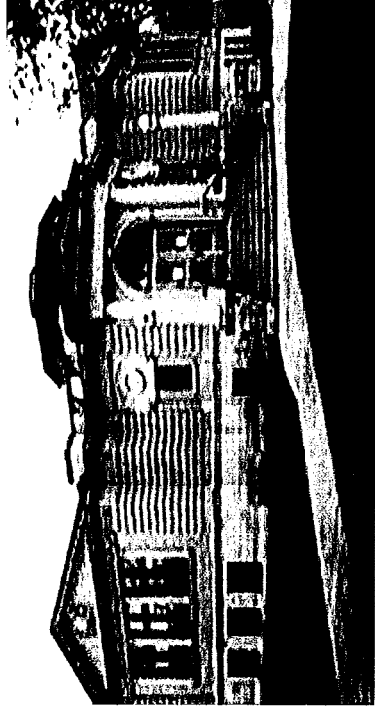
If the Minnesota Rural Water Finance Authority has questions regarding this plan, please call Briana Anderson at 218-245-2112.

Sincerely,

A handwritten signature in black ink, appearing to read "Briana Anderson", with a large, stylized loop at the beginning.

Briana Anderson  
City Clerk-Treasurer

# Coleraine Library Monthly Report



**April 2020**

## **Mission Statement**

*The Coleraine Carnegie Library is a community gathering place where children develop a love of reading, youth and adults expand their knowledge and enjoyment, and the public stays connected to our world-past, present and future.*

# March 2020 - Circulation & Attendance\*

| Circulation             | Mar-19 | Mar-20 | % Chg  |
|-------------------------|--------|--------|--------|
| Adult                   | 1,030  | 1,065  | 3.3%   |
| Adult (Year-to-Date)    | 3,124  | 3,118  | -0.2%  |
| Juvenile                | 2,277  | 1,787  | -27.4% |
| Juvenile (Year-to-Date) | 6,651  | 6,848  | 2.9%   |
| Media                   | 460    | 252    | -82.5% |
| Media (Year-to-Date)    | 1,336  | 896    | -49.1% |
| Total circulation       | 3,767  | 3,104  | -21.4% |
| Total Circulation YTD   | 11,111 | 10,862 | -2.3%  |

|                 | Mar-19 | Mar-20 | % Chg  |
|-----------------|--------|--------|--------|
| Attendance      | 1,530  | 934    | -39.0% |
| New Borrowers   | 3      | 4      | 33.3%  |
| New Books/Items | 78     | 9      | -88.5% |
| Computer Usage  | 167    | 93     | -44.3% |
| Club Room Usage | 103    | 35     | -66.0% |
| Reference       | 277    | 182    | -34.3% |

Programming: Coffee, Cake and Crafting - 8 attended

\*NOTE The library was closed to the public from March 17 – March 31 due to the COVID-19 library pandemic. This meant the library was closed for 11 of 22 days it normally would have been open.

| Month | eBook | Audio | Magazines Newspaper | Total |
|-------|-------|-------|---------------------|-------|
| Jan   | 59    | 68    | 0                   | 127   |
| Feb   | 58    | 63    | 0                   | 121   |
| Mar   | 58    | 65    | 0                   | 123   |
| Apr   |       |       |                     |       |
| May   |       |       |                     |       |
| June  |       |       |                     |       |
| July  |       |       |                     |       |
| Aug   |       |       |                     |       |
| Sept  |       |       |                     |       |
| Oct   |       |       |                     |       |
| Nov   |       |       |                     |       |
| Dec   |       |       |                     |       |
| Total |       |       |                     |       |

E-materials – 123 were checked out in March 2020 vs 116 in March 2019.

# Library Account

March 2020

| First National Bank of Coleraine                                              | Amount     |
|-------------------------------------------------------------------------------|------------|
| Balance on 2/29/2020                                                          | \$4,998.75 |
| Deposits                                                                      |            |
| Donation 3/4/2020                                                             | \$200.00   |
| Donation 3/4/2020                                                             | \$20.00    |
| Interest 3/31/2020                                                            | \$2.02     |
| Total Deposits                                                                | \$222.02   |
| Disbursements                                                                 |            |
| Baker & Taylor 2/13/2020                                                      | -\$123.12  |
| Reimbursement to City of Coleraine 3/10/2020<br>(For ALS Mini-Grant Art Cart) | -\$251.88  |
| Total Disbursements                                                           | -\$375.00  |
| Balance on 3/31/2020                                                          | \$4,845.77 |

|     |          |
|-----|----------|
| MPL | \$178.48 |
|-----|----------|

# Library Expenses

| Petty Cash Account     |          |
|------------------------|----------|
| Cash On-Hand 2/29/2020 | \$141.76 |
| Disbursements          |          |
| Total Disbursements    | \$0.00   |
| Total from below       | \$23.55  |
| Balance on 3/31/2020   | \$165.31 |

| Petty Cash Deposits |         |
|---------------------|---------|
| Printing            | \$2.55  |
| Book sales          | \$10.00 |
| Book replacement    | \$11.00 |
| Total               | \$23.55 |



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City of Coleraine

**RESOLUTION 2020-04.27-Lib**

**RESOLUTION ACCTPTING DONATION(S)**

**WHEREAS**, the City of Coleraine is generally authorized to accept donations or real and personal property pursuant to the Minnesota Statutes Section 465.03 for the benefit of citizens; and

**WHEREAS**, said Minnesota Statute 465.03 requires that all gifts and donations of real or personal property be accepted only with the adoption of a resolution approved by two-thirds of the members of the City Council; and

**WHEREAS**, the following person/persons and or entity/entities has/have donated real and or personal property as follows:

| FROM             | DONATION  | INTENDED PURPOSE |
|------------------|-----------|------------------|
| Anonymous donors | \$ 220.00 | Public Library   |

WHEREAS, the City of Coleraine will strive to use the donation as intended by the donor; and

WHEREAS, the City Council finds that it is appropriate to accept said donation(s) as offered.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Coleraine that the donations(s) described above are accepted as allowed by law.

Passed this 27<sup>th</sup> day of April, 2020.

\_\_\_\_\_  
Dan Mandich, Mayor

ATTEST:

\_\_\_\_\_  
Briana Anderson, Clerk-Treasurer

CITY OF COLERAINE, MINNESOTA  
RESOLUTION – 2020.427-grant

STATE OF MINNESOTA  
COUNTY OF ITASCA  
CITY OF COLERAINE

RESOLUTION ACCEPTING BLANDIN GRANT

WHEREAS a committee of alumni from the Blandin Community Leadership Program has applied for a grant supporting the development of rain gardens in the City of Coleraine; and

WHEREAS students of Greenway District 316, Van Dyke Elementary will be involved in the project; and

WHEREAS the alumni committee and the city agree this multi-generational environmental project is important as part of stormwater mitigation; and

WHEREAS the City of Coleraine agrees that this project fits in with the Stormwater Retrofit project, the design of which is underway; and

WHEREAS the City of Coleraine has a vital interest in the protection of Trout Lake;

NOW THEREFORE BE IT RESOLVED that the City of Coleraine accepts the \$5,000 grant from Blandin for the specific use of a rain garden(s) project in collaboration with Itasca County Soil and Water, Van Dyke Elementary school and BCLP alumni volunteers.

Passed this 27<sup>th</sup> day of April, 2020.

\_\_\_\_\_  
Dan Mandich, Mayor

ATTEST:

\_\_\_\_\_  
Briana Anderson, City Clerk-Treasurer

G-2020-10911

April 24, 2020

Brianna Anderson  
City of Coleraine  
302 Roosevelt Avenue  
Coleraine MN 55722

Re: Award of Grant G-2020-10911

Dear Brianna:

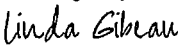
I am pleased to inform you that a grant of \$5,000 has been approved by the Blandin Foundation to City of Coleraine to establish rain gardens in collaboration with Vandyke Elementary students as part of the Blandin Leadership Grant program in Itasca County.

Please review this Grant Agreement for the specific terms and/or conditions of this grant. If you agree, please follow the instructions provided to electronically sign your Grant Agreement and submit to the Blandin Foundation. A copy will automatically be sent to you after signing. Please retain a copy of the Grant Agreement for your files. If you have questions about any part of this agreement, feel free to contact me or anyone else on our grants team at 218-326-0523.

You will notice that the date of April 1, 2021 is inserted in the Grant Agreement for you to submit a brief report about the outcomes of this grant. Please let me know if this date is reasonable given other commitments you may have at that time. In addition to our interest in your work, reporting is increasingly important for the Foundation's annual audit and we appreciate your help with this portion of fulfilling the conditions of the grant.

On behalf of the Board of Trustees of the Blandin Foundation, I would like to congratulate you on receiving this award. We are pleased to be a part of this effort and look forward to hearing from you as progress is made towards achieving your goals. Again, if you have any questions after reviewing the Grant Agreement, please feel free to call me.

Sincerely,

DocuSigned by:  
  
509AF50A68554E0  
Linda Gibeau  
Program Officer

c: Michael Andrews  
File

G-2020-10911

### Blandin Foundation Grant Agreement

This Agreement, made and executed this 24<sup>th</sup> day of April 2020, by and between the Blandin Foundation (hereinafter referred to as "Foundation"), and City of Coleraine (hereinafter referred to as "Grantee").

The Foundation agrees to make the following grant, and Grantee agrees to accept such grant, in accordance with the terms and provisions hereinafter set forth:

- The grant award of **\$5,000** for grant number **G-2020-10911** shall be used solely for the purposes described in the grant application for **establishing rain gardens in collaboration with Vandyke Elementary students as part of the Blandin Leadership Grant program in Itasca County**. Funds shall be expended in the manner and over the period of time described in the grant application.
- The grant has not been earmarked to support or carry on any lobbying. If the grant is restricted to a specific project, grantee has submitted a budget for the entire project's operation and affirms that the project's budget accurately reflects Grantee's intentions to expend at least the amount of this grant on the non-lobbying portion of the project.
- The Grantee will repay to the Foundation any portion of the amount granted which is not used by Grantee for the purposes specified in the Grant Agreement.
- We will evaluate this project on the basis of the goals and/or outcomes that are outlined in your proposal. Upon completion of the project, please submit a brief report (1-2 pages) including what was accomplished with the grant, what you learned and a summary of how funds were expended. This report will be due:

April 01, 2021

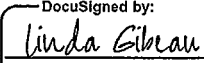
Failure to fulfill reporting requirements may affect Grantee's ability to seek future funding from the Foundation.

- Funds will be released to the Grantee within approximately two weeks of receipt of this signed grant agreement. Grant payments are made the second and fourth Thursdays of each month.
- The Grantee will maintain records of grant expenditures, as well as reports to the Foundation regarding the grant, for seven years after completion or termination of the grant. The Grantee will make records of grant expenditures available to the Foundation at reasonable times and upon request.
- To help the public gain awareness, both of this project and the Blandin Foundation's work, we request that you recognize the Foundation's contribution, where appropriate, on signage, brochures or publicity you generate about your project.

In Witness whereof, the parties have executed this Grant Agreement in duplicate as of the day and year first above written.

#### FOUNDATION:

Blandin Foundation  
100 North Pokegama Avenue  
Grand Rapids, MN 55744

By:   
Linda Gibran  
Program Officer

# GREEWAY JOINT RECREATION ASSOCIATION

Mar. 16, 2020  
Barb Gibeau- Secretary

Meeting called to order by President Venema at 7:00.

Casey Venema  
Carissa Nelson  
Dwight Kessler  
Barb Gibeau  
Dan Strand  
Bob Lawson  
Dan Andrews  
George Delich  
Pat Guyer  
Eric Troumbly

Lawrence Lake Twp.-President  
Nashwauk Twp.-Vice President  
Trout Lake Twp.- Treasurer  
LaPrairie-Secretary  
Calumet  
Bovey  
Marble  
Coleraine  
Director  
Asst. Director

Other: Jim Fritz-County Soil and Water

The board approved the agenda.

Motion made by Delich second by Nelson to accept the minutes from the Feb. 17 meeting. Motion carried.

As of Feb.29 there was \$46,082.78 in the account. Receipts were \$24,492.19. Disbursements were \$41,197.23. Outstanding checks \$8,183.07.

Motion made by Andrews second by Delich to accept the treasurer's report. Motion carried.

## Old Business:

Jim Fritz gave the board an update on the water project the county is planning. They have received grants and have 3 yrs. to raise the match for the grants to cover the cost of the project.

## New Business:

A notice came for premium options for workman's comp. The current plan has gone up from \$5840 to \$6202.

Motion made by Nelson second by Delich to go with the same plan. Motion carried

Nelson said the volleyball would like to get 4 carts with the \$500 we have budgeted for them.

Motion made by Andrews second by Strand to give volleyball the \$500 we have budgeted. Motion carried.

Gibeau gave an update on the concession. Lauren will be in at the next meeting with final numbers.

## Director Report:

Mini Mite Jamboree went well. Good crowds for the weekend.

12 U A Girls Tournament was also a success. Many great volunteers for the weekend and many nice compliments on the tournament and the helpfulness of everyone involved.

We canceled the skating show for figure skating to try and follow the lead on the rest of the state and country for social distancing. We did hold the dress rehearsal. Skaters were able to skate and leave when they were finished.

School closing. Practices are canceled until if or when school resumes. We should set a policy on what to do with our building. Is Roller Derby included? Summer program sign up? The board discussed and Roller Derby is included. Summer programs see what happens.

Motion made by Nelson second by Venema to close the building to the public until further notice.

Motion carried.

Pat will not be taking vacation he had planned so he should be around that week.

Adjourn 7:37

Barb Gibeau/Secretary

## **City of Coleraine Conflict of Interest Policy**

The City Council of the City of Coleraine hereby adopts the following policy concerning conflicts of interest.

### **Article 1. Purpose**

The purpose of this policy is to ensure that the business of the City of Coleraine will be conducted in such a way that no public official or employee of the city will gain a personal or financial advantage from his or her work for the municipality and so that the public trust in municipal officials will be preserved. It is also the intent of this policy to ensure that all decisions made by municipal officials are based on the best interest of the City of Coleraine.

### **Article 2. Definitions**

For the purpose of this policy, the following definitions shall apply:

- A. "Abstain" means to refrain from something by one's own choice, typically, in voting.
- B. "Conflict of Interest" means any of the following:
  - 1. A direct or indirect personal interest of a public official or employee, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother-in-law, sister-in-law, business associate, employer in the outcome of a cause, proceedings, application or any other matter pending before the officer, employee or before the public body in which he or she holds office or is employed.
  - 2. A direct or indirect financial interest of a public officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother-in-law, sister-in-law, business associate, employer in the outcome of a cause, proceeding, application or any other matter pending before the official, employee or before the public body in which he or she holds office or is employed.
- C. "Official act or action" means any discretionary legislative, administrative or judicial act performed by any elected or appointed officer or employee while acting on behalf of the City of Coleraine.
- D. "Public Body" means the City Council, any of the city's departments, boards, commissions, committees or other instrumentalities.
- E. "Public Interest" means an interest of the community as a whole, conferred generally upon all residents of the City of Coleraine.
- F. "Public Officer" or "Public Official" means a person elected or

appointed to perform executive, administrative, legislative or quasi-judicial functions for a public body. This policy also applies to all City employees.

- G. "Recuse" means to remove oneself from a particular proceeding because of a real or perceived conflict of interest.

### **Article 3. Disqualification**

- A. A public officer shall not participate in any official action if he or she has a conflict of interest in the matter under consideration.
- B. A public officer shall not personally, or through any member of his or her household, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application or other matter pending before the public body in which the officer holds office or is employed.
- C. In the case of a public officer who is an appointee, the public body which appointed that public officer shall have the authority to order that officer to recuse himself or herself from the matter.
- D. Public officers shall not accept gifts or other offering for personal gain by virtue of their public office that are not available to the public in general.
- E. Public officers shall not use the person's public position to secure special privileges or exemptions for the person or for others.
- F. Public officers shall not use the person's public position to solicit personal gifts or favors.
- G. Public officers shall not use city resources not available to the general public, including but not limited to city employee staff time, equipment, supplies or facilities for private gain or personal purposes.

### **Article 4. Disclosure**

A public officer who has reason to believe that he or she has or may have a conflict of interest but believes that he or she is able to act fairly, objectively, and in the public interest in spite of the conflict of interest shall, prior to participating in any official action on the matter, disclose to the public body at a public hearing the matter under consideration, the nature of the potential conflict of interest and why he or she believes that he or she is able to act in the matter fairly, objectively and in the public interest. This shall be noted in the minutes of the proceeding.

## **Article 5. Recusal**

- A. A public officer shall recuse him or herself from any matter in which he or she has a conflict of interest pursuant to the following:
  - 1. Any person may request that a member recuse himself or herself due to a conflict of interest. Such a request shall not constitute a requirement that the member recuse himself or herself.
  - 2. A public officer who has recused himself or herself from a proceeding shall not sit with the board, deliberate with the board or participate in that proceeding as a board member in any capacity.

## **Article 6. Removal**

Upon a majority vote, the affected Board or Commission may request that the legislative body remove a board member who has knowingly violated this conflict of interest policy from the discussion and action in which a conflict of interest has been identified. In the case of a Commission or Board member, the affected Board or Commission and the City Council would act to remove the member; in the case of a City Council Member, the City Council would call for the recusal of the Council Member with the identified conflict of interest.

## **Article 7. Enforcement; Progressive Consequences for Failure to Follow this Conflict of Interest Procedure**

In cases where the conflict of interest procedures in Article 4 and 5 have not been followed, the City Council may, in addition to the removal process identified in Article 6, take progressive action to discipline an offending public officer. In the discipline of a public officer, the Council shall follow these steps in order:

- A. For public officers who are city employees, the full City Council may meet to discuss the conduct of the public officer. Executive session may be used for such discussion in accordance with Minnesota State Statutes. The public officer may request that this meeting occur in public. If appropriate, the Council may discipline the offending public officer in private.
- B. For appointed public officers serving on City Boards and Commissions, if the affected Board or Commission and City Council decides that further action is warranted, the affected Board or Commission and City Council jointly may admonish the offending public officer at an open meeting of the affected Board or Commission and reflect this action in the minutes of the meeting. The public officer shall be given the opportunity to respond to the admonishment.

- C. For elected City Council members, the full City Council shall meet in public session to decide if further action is warranted. If the City Council determines further action is warranted, the City Council, by majority vote will act to admonish the City Council member at an open meeting and shall reflect this action in the minutes of the meeting. The public officer shall be given the opportunity to respond to the admonishment.
- D. Upon majority vote, the City Council may request that the offending public official resign from the Council. For appointees, the board may remove the offending public officer from such Board or Commission.

### **Article 8. Exception**

The recusal provision of Article 5 shall not apply if the Coleraine City Council determines that an emergency exists and the actions of the public body otherwise could not take place. In such cases, a public officer who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided in Article 4.

### **Article 9. Effective Date**

This policy shall become effective immediately upon its adoption by the Coleraine City Council.

Adopted this the 27<sup>th</sup> day of April, 2020.

---

Daniel Mandich, Mayor

Attest:

---

Briana Anderson, City Clerk-Treasurer

## EXTENSION OF LEASE

THIS EXTENSION is for a lease made May 21, 2018 between the City of Coleraine, as (Landlord) and Rapid Rooter, as (Tenant).

WHEREAS: The Lease will Terminate in May.

WHEREAS: The City is in the process of drafting legal descriptions to facilitate a possible sale of the vacated Fire Department Building.

WHEREAS: The sale process has not started by the City.

THEREFORE: The parties agree to extend the lease on a month by month basis.

TERMINATION: Will be upon notice effective 60 days from the notice date.

All other terms of the 2018 lease shall remain in effect.

Coleraine

Rapid Rooter


By \_\_\_\_\_  
Its Mayor

By \_\_\_\_\_  
Its Damian Fillbrandt

Attest \_\_\_\_\_  
Its Clerk

| 2020 Fire Department Budget             |                |             |                          |
|-----------------------------------------|----------------|-------------|--------------------------|
| General Fund                            |                |             |                          |
| Revenue from Fire Contracts             | (proposed 40%) | \$64,800.00 | (actual 27%) \$43,000.00 |
| City Annual Contribution                |                |             | \$66,000.00              |
| Bovey 35%                               |                |             | \$23,100.00              |
| Coleraine 65%                           |                |             | \$42,900.00              |
| <i>paid</i>                             |                |             |                          |
| City Annual Contribution new fire truck |                |             | \$53,000.00              |
| Bovey 35%                               |                |             | \$18,550.00              |
| Coleraine 65%                           |                |             | \$34,450.00              |
|                                         |                | (actual)    | \$162,000.00             |
| Emergency Service Building              |                |             |                          |
| Revenue from rents                      |                |             | \$12,800.00              |
| City Contribution                       |                |             | \$5,000.00               |
| Bovey 50%                               |                |             | \$2,500.00               |
| Coleraine 50%                           |                |             | \$2,500.00               |
| <i>paid</i>                             |                |             |                          |
| Total TLFD 2020 Budget                  |                |             | \$17,400.00              |
|                                         |                |             | \$179,400.00             |

Bovey Total Contribution \$44,150.00  
 Coleraine Total Contribution \$79,850.00

old  
Agenda item → Fire Hall  
Property descriptions & map  
attached. 

**Briana Anderson - City of Coleraine**

**From:** Bob Beaver <bbeaver@sehinc.com>  
**Sent:** Thursday, April 23, 2020 12:22 PM  
**To:** Briana Anderson - City of Coleraine  
**Cc:** jdimich@paulbunyan.net  
**Subject:** Re: old fire hall property division  
**Attachments:** COLER Firehall Desc - remainder.docx; COLER Firehall Desc-tb.docx; legals.png

Briana and John -

We have a revised plan. The surveyor has prepared two legal descriptions. The first is the Firehall property that we want to sell. This one changed from the first one because of how it ties in with the second description. The second description is the rest of the parcel that is not being sold. The City would retain the property associated with the second description. He has not signed the two descriptions because he would like the City to review and approve the two parcels.

The surveyor also prepared an exhibit to display the two parcels. The exhibit is a png file that you should be able to open. You can see all the little pieces that don't make buildable lots. That is why it stays as one parcel. The parcel is not contiguous or all parts together. This is allowed. By keeping the remaining portion together as one parcel, it is clear what we are trying to accomplish.

Please review the documents and with your approval, Theo will sign the descriptions.

The final step is recording the descriptions or preparing a Certificate of Survey (document that shows the adjoining parcels, the new firehall parcel, the pins that were found, the pins that were set and the legal description). We will decide which way to go with this once the City approves the legal descriptions.

Bob Beaver, PE (MN)  
Sr. Project Manager | Principal  
SEH  
21 NE 5th Street, Suite 200, Grand Rapids, MN 55744  
218.322.4502 direct  
218.259.5018 cell  
888.908.8166 fax  
sehinc.com  
Building a Better World for All of Us ®

**From:** Briana Anderson - City of Coleraine <banderson@cityofcoleraine.com>  
**To:** Bob Beaver <bbeaver@sehinc.com>  
**Cc:** John Dimich <jdimich@paulbunyan.net>  
**Date:** 04/23/2020 11:01 AM  
**Subject:** old fire hall property division

Hi Bob,

Hope all is going well for you and yours! ?

So . . . I am again wondering on where we are with the division of the old fire hall property. Is there anything that the Council needs to vote on or approve at this time before it goes to Dimich?

Does that get filed or recorded at the County? Does that have to happen before a RFP goes out?

Sorry about all the questions today!

Thanks!

*Briana*

Briana Anderson, MAM, MBA  
City Clerk-Treasurer  
City of Coleraine  
PO Box 670  
302 Roosevelt Street  
Coleraine, MN 55722  
218.245.2112, ext 1001  
218-245-2123 fax  
[www.cityofcoleraine.com](http://www.cityofcoleraine.com)

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NONDISCRIMINATION STATEMENT: *This institution is an equal opportunity provider and employer.*



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## DESCRIPTION OF PROPOSED PARCEL

That part of Cotton Park, PLAT OF COLERAINE, according to the recorded plat thereof on file and of record in the Office of the County Recorder, Itasca County, Minnesota, lying Westerly, southerly and easterly of parcels 44, 45, and 50 as depicted on Minnesota Department of Transportation Trunk Highway No. 169 map 200-77; westerly and northerly of LINE A described below; and northerly, easterly, and southerly of LINE B described below.

### LINE A:

Commencing at the West Quarter Corner of Section 32, Township 56 North, Range 24 West, thence North 89 degrees 25 minutes 30 seconds East along the east-west quarter line of said Section 32 a distance of 1906.71 feet to the east line of said Cotton Park also being the POINT OF BEGINNING, thence South 00 degrees 42 minutes 18 seconds East, along said east line a distance of 459.02 feet; thence South 71 degrees 43 minutes 42 seconds West a distance of 394.85 feet; thence South 68 degrees 43 minutes 42 seconds West a distance of 284.34 feet to the said east line of platted Elizabeth Avenue and there terminating.

### LINE B:

Commencing at said east line of platted Elizabeth Avenue and the easterly extension of the centerline of Roosevelt Avenue as depicted on said PLAT OF COLERAINE; thence east along said centerline 150.00 feet; thence southerly parallel to said Elizabeth Avenue for 246.00 feet; thence westerly parallel to said Roosevelt Avenue 150.00 feet to said east line of Elizabeth Avenue and there terminating.

### EXCEPT:

That part of Cotton Park, PLAT OF COLERAINE, according to the recorded plat thereof on file and of record in the Office of the County Recorder, Itasca County, Minnesota, lying southerly of Roosevelt Avenue, depicted as part of parcel 44 upon Minnesota Department of Transportation Trunk Highway No. 169 map 200-77; easterly of a line parallel with and 220 feet easterly of the east line of 66 foot wide Elizabeth Avenue, as originally depicted upon said PLAT OF COLERAINE; westerly of the west line and southwesterly extension thereof of Second Avenue, a.k.a. Cotton Park Drive, as depicted upon said Minnesota Department of Transportation Trunk Highway No. 169 map 200-77; and northerly of the following line: Commencing at the West Quarter Corner of Section 32, Township 56 North, Range 24 West, thence North 89 degrees 25 minutes 30 seconds East along the east-west quarter line of said Section 32 a distance of 1906.71 feet to the east line of said Cotton Park, thence South 00 degrees 42 minutes 18 seconds East, along said east line a distance of 459.02 feet to the POINT OF BEGINNING; thence South 71 degrees 43 minutes 42 seconds West a distance of

C:\Users\Office1\AppData\Local\Microsoft\Windows\NetCache\Content.Outlook\ODF769JY\COLER Firehall Desc - remainder.docx

Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 21 NE 5th Street, Suite 200, Grand Rapids, MN 55744-2601

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394.85 feet; thence South 68 degrees 43 minutes 42 seconds West a distance of 284.34 feet to the said east line of platted Elizabeth Avenue and there terminating.

Subject to restrictions, reservations, and easements of record.

### **CERTIFICATION**

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

---

Theodore S Brown, LS  
Minnesota License No. 51678

3/30/2020  
Date



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That part of Cotton Park, PLAT OF COLERAINE, according to the recorded plat thereof on file and of record in the Office of the County Recorder, Itasca County, Minnesota, lying southerly of Roosevelt Avenue, depicted as part of parcel 44 upon Minnesota Department of Transportation Trunk Highway No. 169 map 200-77; easterly of a line parallel with and 220 feet easterly of the east line of 66 foot wide Elizabeth Avenue, as originally depicted upon said PLAT OF COLERAINE; westerly of the west line and southwesterly extension thereof of Second Avenue, a.k.a. Cotton Park Drive, as depicted upon said Minnesota Department of Transportation Trunk Highway No. 169 map 200-77; and northerly of the following line: Commencing at the West Quarter Corner of Section 32, Township 56 North, Range 24 West, thence North 89 degrees 25 minutes 30 seconds East along the east-west quarter line of said Section 32 a distance of 1906.71 feet to the east line of said Cotton Park, thence South 00 degrees 42 minutes 18 seconds East, along said east line a distance of 459.02 feet to the POINT OF BEGINNING; thence South 71 degrees 43 minutes 42 seconds West a distance of 394.85 feet; thence South 68 degrees 43 minutes 42 seconds West a distance of 284.34 feet to the said east line of platted Elizabeth Avenue and there terminating.

Subject to restrictions, reservations, and easements of record.

### CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

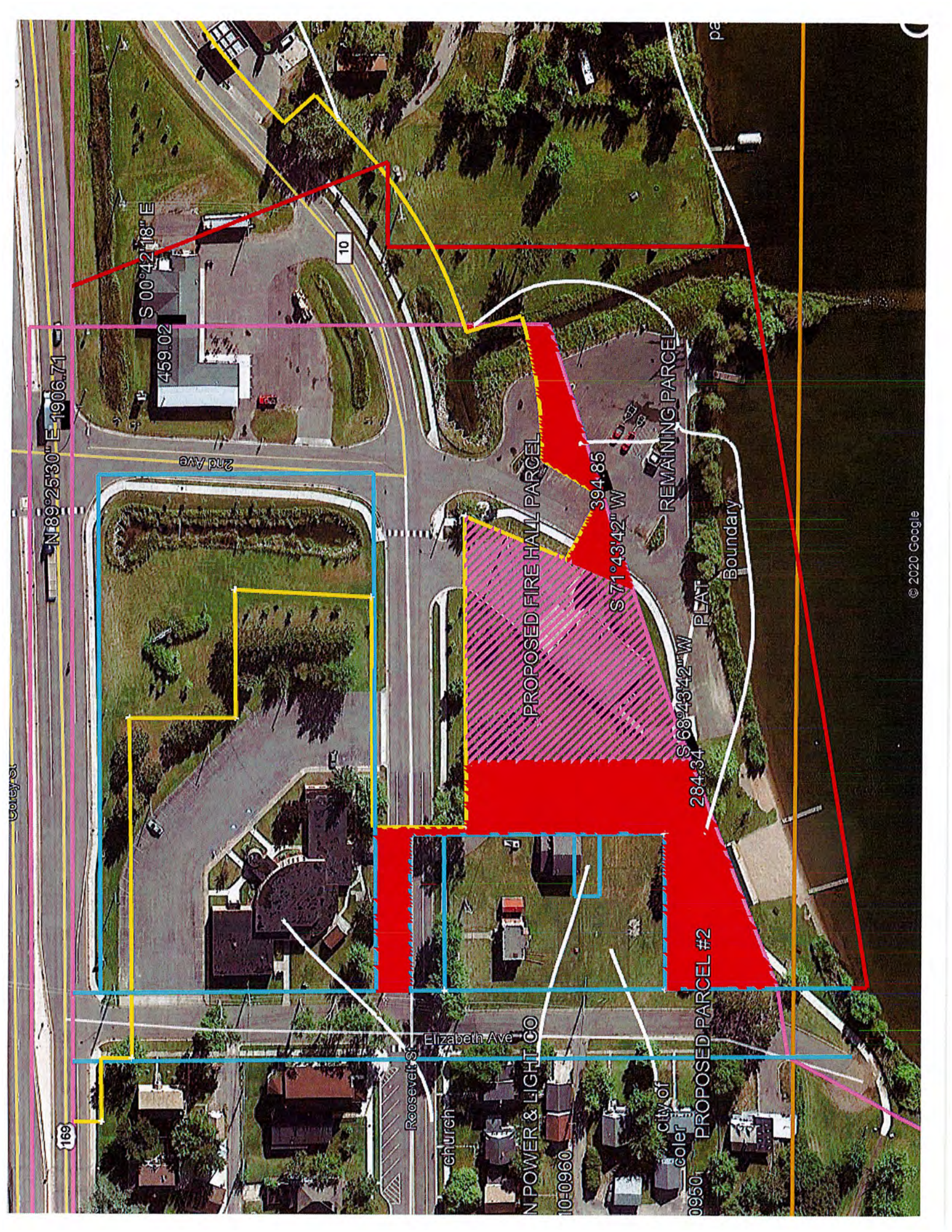
\_\_\_\_\_  
Theodore S Brown, LS  
Minnesota License No. 51678

3/30/2020  
Date

C:\Users\Office1\AppData\Local\Microsoft\Windows\NetCache\Content.Outlook\ODF769JY\COLER Firehall Desc-tb.docx

Engineers | Architects | Planners | Scientists

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N 89°25'30" E 1906.71

S 00°42'18" E

459.02

2nd Ave

PROPOSED FIRE HALL PARCEL

394.85

S 71°43'42" W

REMAINING PARCEL

S 68°43'42" W

284.34

PLAT

Boundary

169

Roosevelt St

Elizabeth Ave

POWER & LIGHT CO

100960

city of color

PROPOSED PARCEL #2

**Range Association of Municipalities & Schools**

**Board Meeting Minutes**

**Thursday, February 27, 2020 – 6:00 P.M.**

**Northeast Service Cooperative Building**

**Call to Order:**

President Medure called the meeting to order at 6:00 P.M.

**Roll Call of Board:**

Present: Pat Medure (ISD 318-Grand Rapids); Charlie Baribeau (City of Virginia); Greg Allen (Supt Assn); Bob Berrini (Morse Township); Dale Christy (City of Grand Rapids); Tim Harkonen (City of Hibbing); John Champa (City of Chisholm); Barb Kalmi (ISD 319-Nashwauk/Keewatin); Paul Kess (City of Ely); Stu Lehman (City of Buhl); Milan Luzaich (Great Scott Township); Kim McLaughlin (ISD 701-Hibbing); Ron Pittman (Cherry Township); Cal Saari (City of Nashwauk); Al Stanaway (City of Mt Iron); Warren Stolp (Nashwauk Township); Gail Baribeau (ISD 706-Virginia); Dave Worshek (City of Aurora); David Zins (City of Hoyt Lakes)

Absent: ISD 2711-Mesabi East; City of Babbitt; One-Supts Assn; McDavitt Township

Also Present: Steve Giorgi, Executive Director; Lois Roskoski, Administrative Assistant; Joe Abeyta; Shane Hoff

**Review and Approve:**

Moved by Kalmi and supported by Champa to approve to agenda, as presented. Motion carried.

**Approve Meeting Minutes:**

Moved by McLaughlin, and supported by Lehman to approve the minutes from the Regular Meeting held January 23, 2020. Motion carried.

**Appearance:**

Director Giorgi introduced Dr. Noel Schmidt, who led the charge for the new school consolidation between Eveleth/Gilbert and Virginia. Voters approved \$178.5 million levy for the new school project. Both school boards have approved the consolidation, but have voted to hold a special election on May 12, 2020, for the public to vote on the consolidation.

Dr. Noel Schmidt provided highlights on the new school project, as follows:

- The name of the new school district will be "Rock Ridge".
- The names for the elementary schools in Virginia and Eveleth/Gilbert have not been decided, but will include Rock Ridge.
- The new elementary school in Eveleth will accommodate 650 students and will include an indoor play area.
- The School Board has started the eminent domain process on the ERATS charter school building. They are still negotiating that lease, so hopefully it will have a good outcome. They are also working to acquire the VEEDA building in Progress Park for expansion.

- Information on the new high school:
  - An 825 people auditorium.
  - Seating capacity of 500 in the pool area.
  - The ground floor will have classrooms surrounded by a hands on learning area.
  - The two upper levels will have a double classroom, regular classrooms that can be combined, smaller learning areas and an open area with books.
  - The baseball and softball fields will be built on White Cedar Drive.
  - Locker rooms are underneath the gyms.
  - One main entrance will be utilized for security reasons.
- 215 students per grade are anticipated.
- Construction bids will go out early spring.
- If they cannot find anyone to buy the existing school buildings, they will be demolished.
- Square footage in the new school will be half of what they currently use.
- High school is scheduled to open in the Fall of 2023.
- School officials will continue to provide accurate information to the public.

#### **Director's Report:**

Director Giorgi provided a written report for the month of February and provided the following comments:

- A well-attended press conference was held on January 31<sup>st</sup> at Carpenters Hall with Congressman Stauber and Representative Ecklund, local elected officials and labor to speak against McCollum's bill HR 5598 to withdraw 234,000 acres and deprive Twin Metals and other companies from exploring and possibly mine precious minerals in the Superior National Forest. Representatives traveled to Washington, DC, the following week and Senators have not committed to carry a companion bill.
- A press conference was held in St. Paul on February 11<sup>th</sup>, which was well attended, in conjunction with PolyMet filing an appeal.
- Attended two meetings of the Governor's Task Force on Broadband. The Task Force made a recommendation to the Governor to support an additional \$30 million for broadband, if there is a supplemental tax bill.
- The annual meeting with the Range Delegation was supposed to be held on February 25<sup>th</sup>, but was rescheduled for Tuesday, March 10<sup>th</sup>. This will be a great opportunity, in a relaxed environment, to meet with legislators and discuss issues.
- An ad was placed in Hometown Focus mine edition and is included in the meeting packet.
- Broadband Day on the Hill will be held on Thursday, March 12<sup>th</sup>. RAMS can reimburse the \$25 fee for RAMS Board members if they want to attend.
- A letter of support was sent to Rep. Gene Pelowski, Chair of the House Greater MN Jobs and Economic Development, to support HF 3029 to put \$30 million in base funding for broadband.
- Rural broadband conversation will be held on March 24<sup>th</sup> at 6 pm at the NESC to discuss what can be done with rural broadband in communities.

#### **Old Business:**

- a. Legislative presentation from RAMS.

Director Giorgi reviewed the legislative report from Gary Cerkenik and Jeff Anderson, RAMS lobbyists, including Broadband, pit water levels, \$65 per pupil for cooperating districts, capital bonding, mining, IRRRB/Taconite Taxes and summer school.

Director Giorgi will see if the Superintendents will submit a letter of support on the funding per pupil for cooperating school districts. Also, if communities have submitted a bonding grant, they should let Director Giorgi know and he will have the RAMS Lobbyists watch what is happening with the requests.

Regarding the School Trust Fund, Director Giorgi has reached out to Kelsey Johnson, Iron Mining Association, to discuss the impact of mining to all school districts in State. We may utilize the MSBA to distribute the information to the school districts. It was suggested that we bring in someone to make a presentation on the School Trust Fund.

b. Membership update

Director Giorgi stated the following new members have joined RAMS: Wuori Township, Greenwood Township, Enbridge, Kraus Anderson and the Minnesota Trade Labor Council. He will be reaching out to Biwabik Township.

**New Business:**

a. Appointment to vacant position on RAMS Board through December 31, 2020.

Three applications were received to fill the vacant RAM Board position, created by the resignation of Carlene Perfetto: Shane Hoff (City of Silver Bay), Chris Koivisto (St. Louis County Schools) and Joseph Pollard (City of Coleraine). Shane Hof, Silver Bay City Council, was present and introduced himself.

Moved by Kalmi and supported by Christy to nominate Shane Hoff to fill the vacant position on the RAMS Board through December 31, 2020. Motion carried.

b. Committee Opportunities:

1. Legislative Policy Committee. Dale Christy, Cal Saari, Pat Medure and Charlie Baribeau agreed to serve.
2. Constitution and By-Laws Committee. Al Stanaway, Pat Medure, Charlie Baribeau and Stu Lehman agreed to serve.
3. Finance Committee. Pat Medure, Charlie Baribeau, Glenn Anderson and Cyndi Worshek will continue to serve.

**Board Member Updates:**

- a. Charlie Baribeau gave an update on the City of Virginia.
- Miners Memorial Complex and Event Center is a \$32 million project. Demolition will begin in April, starting with Ewen's Field. The new complex will be built north of the existing Miners, with construction beginning this summer. The current Miners will remain in place until the new one is complete and will then be demolished. DSGW are the architects for the project. If the RAMS Board is interested, he could invite the architect to a future meeting to discuss the plans. The new Miners Memorial Complex will include a 750 seat convention center and two full sheets of ice. The larger ice arena will hold 1,800 people. They are looking to hire an outside individual to bring events to the new building. The project will be financed through the voter approved/State authorized 1 percent sales tax, plus \$12 million from state bond funds.
  - They are currently reviewing their Assessment Policy.
  - Hobby Lobby recently opened up at the Thunderbird Mall. Grants can be obtained through IRRRB for demolition projects.
  - The new Public Safety Building made the Governor's list for the bonding bill.

**Finance Committee Report:**

Charlie Baribeau reported on the Finance Committee Meeting held February 27, 2020:

Moved by Christy and supported by Zins to approve the expenditures for the period January 23 – February 26, 2020, in the total amount of \$12,245.25. Motion carried.

Moved by McLaughlin and supported by Pittman to approve the Profit & Loss Budget vs Actual. Motion carried.

Moved by Champa and supported by McLaughlin to approve the Balance Sheet as of February 25, 2020. Motion carried.

Moved by Christy and supported by Lehman to allow the Executive Director and President to research options to reinvest the Certificate of Deposit that will mature on March 14, 2020. Motion carried.

**Other:**

Director Giorgi stated he will send a notice to the Iron Range Mayors, RAMs Board and community leaders to participate in a discussion with Congressman Stauber to discuss the cooper nickel situation. A tentative date of March 16<sup>th</sup> has been set.

Director Giorgi invited the RAMS Board to participate in a conference call at 1:30 P.M. on February 28<sup>th</sup> to discuss the Mesabi Metallics project.

Joe Abeyta was present and stated he will be running for the State Representative, District 5B seat, currently held by Sandy Layman.

**Next Meeting:**

The next regular board meeting will be held at 6:00 P.M. on March 26, 2020.

**Adjournment**

Meeting adjourned at 7:45 P.M.

**Range Association of Municipalities & Schools**

**Board Meeting Minutes**

**Thursday, March 26, 2020 – 6:00 P.M.**

**Northeast Service Cooperative Building**

**Call to Order:**

President Medure called the meeting to order via video conference at 6:00 P.M.

**Roll Call of Board:**

Present: Pat Medure (ISD 318-Grand Rapids); Charlie Baribeau (City of Virginia); Cyndi Worshek (ISD 2711-Mesabi East); Richard Aldrich (Supt Assn); Glenn Anderson (City of Babbitt); Bob Berrini (Morse Township); Dale Christy (City of Grand Rapids); John Champa (City of Chisholm); Jim Fisher (McDavitt Township); Shane Hoff (City of Silver Bay); Barb Kalmi (ISD 319-Nashwauk/Keewatin); Stu Lehman (City of Buhl); Kim McLaughlin (ISD 701-Hibbing); Ron Pittman (Cherry Township); Al Stanaway (City of Mt Iron); Warren Stolp (Nashwauk Township); Gail Baribeau (ISD 706-Virginia); Dave Worshek (City of Aurora); David Zins (City of Hoyt Lakes)

Absent: One-Supts Assn; City of Ely; Great Scott Township; City of Nashwauk

Also Present: Steve Giorgi, Executive Director; Lois Roskoski, Administrative Assistant; Costin Group-Jeff Anderson & Gary Cerkvenik

**Review and Approve Agenda**

Moved by Fisher and supported by Zins to approve the agenda, with the addition of a letter to the MPCA in support of the Enbridge Line 3 project under New Business, Item D. Motion carried.

**Approve Meeting Minutes:**

Moved by Stanaway and supported by Anderson to approve the minutes from the Regular Meeting held February 27, 2020. Motion carried.

**Appearance:**

Michael Liljegren, Minnesota Department of Natural Resources, was scheduled to appear and discuss the rising pit waters at the Canisteo and St James pits. Due to COVID 19 virus pandemic, he will be invited to attend a future meeting.

**Director's Report:**

Director Giorgi highlighted his activities for the month of March:

- Participated in a conference call with the DNR on the Essar project. Conversations have been held with Cleveland Cliffs and other viable mining companies, but nothing has changed. Mesabi Metallics have not made any royalty payments, or paid property taxes to the City of Nashwauk or Itasca County. If the State leases are pulled, they would probably go into bankruptcy. Governor Walz supports a pathway forward, but Essar cannot be the controlling partner or have anything to do with operation of plant, if it is built.

- Attended the Broadband Day on the Hill on March 12. Governor Walz provided a revised budget that day, due to pandemic, and deleted \$30 million from the broadband budget for a reserve fund for the potential COVID 19 crisis.
- A webinar was held with the Blandin Foundation on the impact of lack of quality broadband in rural areas and long distance education.
- Commended the school districts for the efforts they are making at this time to deliver the curriculum during the shutdown because of COVID 19 virus.

#### **Old Business:**

##### **a. Membership Update.**

Director Giorgi stated the following members have not paid their 2020 RAMS membership dues. City of Tower, Clinton Township, Crosby Ironton School District, Road Machinery/Tritec. He has received confirmation from Kraus/Anderson and MN Buildings and Trades that they will be joining RAMS. Inquiries were also sent to Biwabik Township and Crane Lake Township asking them to consider joining RAMS.

##### **b. Permanent School Trust Fund – follow up**

Director Giorgi stated he met with Aaron Vanderlind, Director of the MN School Trust Fund, who provided a letter that was crafted in 2012 and circulated to the MSBA on the benefits of the school trust fund. Director Giorgi will update the letter and include information on what the mining companies contribute to the school trust fund and get the letter published in the MSBA newsletter. Aaron Vanderlind would be willing to attend a “Lunch and Learn” in the future and discuss the School Trust Fund.

#### **New Business:**

##### **a. COVID 19 – open discussion, RAMS efforts, what’s next.**

Director Giorgi stated most of the Northeast Service Cooperative staff is mostly working from home, with the exception of one finance person that will be working in the building. The building will be open to Director Giorgi and RAMS meetings will be held through the ZOOM application. He will share any information that he receives on the shut down due to the virus. Director Giorgi noted it is important that all cities and townships declare an emergency, in order to obtain State or Federal funding. The cities of Ely and Virginia are willing to share their emergency declaration to other entities. A Mayors meeting will be held next week to further discuss this topic.

##### **b. Legislative update – RAMS dinner meeting with delegation.**

Director Giorgi stated RAMS sponsored a dinner meeting with the legislative delegation on March 10<sup>th</sup>. It was difficult to get RAMS board members to attend, due to the change in date. Paul Kess and Rick Blake attended from RAMS. Chuck Novak, Matt Groese and Noel Schmidt also attended. Senator Bakk stated he will be running for his seat, but is concerned about redistricting. Sandy Layman also announced she will be running. Discussion was held on the bonding projects and things were looking good at that time. Senator Bakk stated we should see the lowest interest rates that we have ever seen. The legislature is scheduled to be back in session on April 14<sup>th</sup>. Gary Cerkenik and Jeff Anderson, Costin Group, still anticipate a bonding bill, but felt there will be chaos with the session. Things are very uncertain on how it will play out with the State stay at home orders. The bonding bill may be done by the Speaker and Governor, with the Minority and Majority Leaders playing a minor role. Costin Group will reach out to the leaders at that point to discuss our bonding projects. Gary Cerkenik told the communities that they should be ready with projects, in case funds

are available from the Federal government to jump start the economy. Gary Cerkenik suggested that RAMS pass a resolution authorizing the Executive Director to draft a letter to Governor and leaders in the House and Senate, supporting action in legislation to address emergency needs and noting that we did not see the need to transfer \$20 M from the minerals economic development fund to the statewide loan program. We felt the funds should have been targeted to our specific area, with a more aggressive repayment plan. Communities should have been informed of this issue and input should have been sought from outside the metro area for these issues.

Moved by Baribeau and supported by Berrini to authorize the Executive Director draft a letter to the Governor and House and Senate leaders regarding the transfer of funds from the economic development fund to the statewide loan program, with the Range delegation copied on the letter. Motion carried.

c. \$50,000 CD matured on 3/14/20.

Director Giorgi stated he obtained two quotes from the Gilbert Bank and Boundary Waters Bank of Ely for the reinvestment of the \$50,000 certificate of deposit that matured in March. A decision was made to reinvest the funds with the Boundary Waters Bank of Ely, as follows: \$25,000 in companion savings account at 1.2 percent for 15 months; \$25,000 in certificate of deposit at 1.2 percent for 15 months.

Director Giorgi stated public hearings were supposed to be held this week for the Enbridge Line Replacement Project, but was cancelled due to the Covid 19 virus. The MPCA will hold on-line public hearings in early April and has extended the public comment period. Director Giorgi recommended sending a letter to the Commissioner of the MPCA in support of the Enbridge Line 3 Project.

Moved by Fisher and supported by Anderson to approve sending a letter to the Commissioner of the Minnesota Pollution Control Agency strongly supporting the Enbridge Line 3 Replacement Pipeline. Motion carried.

#### **Board Member Updates:**

a. No updates were held at this meeting.

#### **Finance Committee Report:**

Cyndi Worshek reported on the Finance Committee Meeting held March 26, 2020:

Moved by Christy and supported by Pittman to approve the following reports:

- Expenditures for the period February 27-March 25, 2020, in the total amount of \$14,041.85.
- Profit & Loss Budget vs Actual, at 21.9 percent.
- Balance Sheet.

Motion carried.

**Other:**

Director Giorgi gave an update on the PolyMet project. The Appellate Court remanded back the air quality permit, based on six conditions that the court can find to remand case back. They did not find any of the six conditions, but the MPCA had not written a decision in a manner that would facilitate judicial review. All of this is a result of public hearings that closed on March 16<sup>th</sup>. The decision was based on speculation that PolyMet intends to have a larger mine than permit allows and the air quality permit was granted under false pretense. They argued with the MPCA to amend the findings of the public hearing, but the MPCA rejected that. The PolyMet legal team and MPCA are confident they can resubmit adequate information to substantiate how they submitted the permit.

**Next Meeting:**

The next RAMS Board meeting will be held at 6:00 P.M. on Thursday, April 23, 2020.

**Adjournment:**

Meeting adjourned at 7:00 PM.

## City Employment Issues During COVID-19 Pandemic

Published: March 27, 2020

(Updated April 20, 2020)

***Note:** The League is using the Centers for Disease Control and Prevention (CDC) and Minnesota Department of Health (MDH) to provide much of our guidance. We urge our member cities to keep checking the CDC (<https://www.cdc.gov/coronavirus/2019-ncov/index.html>) and MDH (<https://www.health.state.mn.us/diseases/coronavirus/index.html>) websites for updates. Because this situation is rapidly evolving, the League encourages cities to work with their city attorney in implementing the new law and adapting any policies.*

For policy samples and other guidance relating to COVID-19 employment related issues, contact [HRBenefits@lmc.org](mailto:HRBenefits@lmc.org) (<mailto:HRBenefits@lmc.org>)

Get answers to these frequently asked questions (FAQs) about city employment issues and COVID-19:

Q1. In an effort to slow the COVID-19 spread, our city hall has closed. What happens to our employees' pay and benefits? (#Q1)  
(Updated April 3, 2020)

Q2. What new state employment laws have been passed or amended in response to the COVID-19 pandemic that are applicable to cities? (#Q2)(Updated April 10, 2020)

Q3. Can cities quarantine an employee who was in contact with someone who is awaiting COVID-19 test results? (#Q3)(Updated April 10, 2020)

Q4. Can we terminate an employee who is not able to come to work due to COVID-19? (#Q4)

Q5. How do we protect public safety employees? (#Q5)(Updated April 10, 2020)

Q6. For our operations crew and first responder employees, how many hours per day or per week can an employee work? (#Q6)

Q7. Are workers exposed to COVID-19 eligible for workers' compensation? (#Q7)(Updated April 9, 2020)

Q8. What about unemployment insurance benefits for our employees if their hours are reduced? What about paid on-call firefighters — are they covered? (#Q8)

Q9. How do OSHA regulations apply to remote workers? What about ergonomics? (#Q9)(Updated April 10, 2020)

Q10. What is the HR policy to address an employee that may have been exposed? Can a city require isolation? Or check workers' temperatures? (#Q10)(Updated April 20, 2020)

Q11. If an employee has been diagnosed with COVID-19, when can they return to work? (#Q11)

Q12. How do cities process I-9s for new hires during the COVID pandemic? (#Q12)

Q13. What are the requirements of the new federal Families First Coronavirus Response Act? (#Q13)(Updated April 16, 2020)

Q14. With the Stay at Home order by Gov. Walz, is that deemed a quarantine or isolation that allows employees to access Emergency Paid Sick Leave? (#Q14)(Updated April 3, 2020)

Q15. Can you please address how Emergency Paid Sick Leave might overlap with Public Health Emergency Leave? (#Q15)  
(Updated April 3, 2020)

Q16. For the Emergency Paid Sick Leave, the up to 80 hours is regardless of if the employee has accrued time available, correct? (#Q16)

Q17. Can an employee supplement with their own accrued leave to receive a full check in cases where they are receiving two-thirds pay under Public Health Emergency Leave or Emergency Paid Sick Leave? (#Q17)(Updated April 3, 2020)

Q18. Can an employee access Public Health Emergency Leave or Emergency Paid Sick Leave for care of a grandchild? (#Q18)  
(Updated April 3, 2020)

Q19. Can the paid FMLA Public Health Emergency Leave be used intermittently? (#Q19)(Updated April 3, 2020)

Q20. If we have an employee on 14-day quarantine due to possible exposure, can they use the 80-hour FFCRA leave? Or is it better to use paid administrative leave? (#Q20)

Q21. If schools are not open in person, but for distance learning, does the FFCRA cover employees who want or need to stay home with their children during the distance learning? (#Q21)

Q22. Are Public Health Emergency Leave and Emergency Paid Sick Leave paid benefits subject to Public Employees Retirement Association (PERA)? (#Q22)(Updated April 10, 2020)

Q23. Can an employee stay home under the FMLA expansion to avoid getting COVID-19? (#Q23) (Updated April 20, 2020)

Q24. I understand there will be some posting requirements related to FFCRA. What does that include? (#Q24)(Updated April 3, 2020)

Q25. Can you tell me more about the FFCRA health care providers and medical responders exemptions and why the exemptions exist? (#Q25) (Added April 3, 2020)

Q26. Is it an option to exclude Emergency Responders from the Public Health Emergency Leave, but not the Emergency Paid Sick Leave, or visa versa? (#Q26) (Added April 3, 2020)

Q27. If we exempt health care workers or emergency responders from the leave granted under the FFCRA, can they take other kinds of leave? (#Q27) (Updated April 6, 2020)

Q28. As an employer, how long do I need to retain documentation relating to FFCRA leaves? (#Q28) (Added April 3, 2020)

Q29. Is it true that all employers (including governments) are exempt from paying the employer's share of the Social Security tax on wages paid under the FFCRA? (#Q29) (Updated April 10, 2020)

Q30. Do I need to keep employees on the city's insurance while they are taking Public Health Emergency Leave or Emergency Paid Sick Leave? (#Q30) (Added April 10, 2020)

Q31. Not necessarily a question, but a comment – there has been so many changes flying around, it's hard to keep everything straight. (#Q31) (Added April 3, 2020)

Q32. We are a small city. Do we have to comply with the FFCRA? (#Q32) (Updated April 3, 2020)

Q33. What is the definition of "son or daughter" with regard to the FFCRA? (#Q33) (Updated April 3, 2020)

Q34: I heard something about possible administrative forbearance for public employees who are using the Public Service Loan Forgiveness (PSLF). Where can I direct employees to learn more? (#Q34)(Added April 13, 2020)

## **Q1. In an effort to slow the COVID-19 spread, our city hall has closed. What happens to our employees' pay and benefits?**

**A1.** Generally, the League recommends cities be as flexible as possible with keeping workers in paid status, but every city has different resources and needs. Below are some options various cities are using:

- Working from home. The [April 1 Department of Labor guidance](https://www.dol.gov/sites/dolgov/files/WH/2020/Pandemic/FFCRA.pdf) (<https://www.dol.gov/sites/dolgov/files/WH/2020/Pandemic/FFCRA.pdf>) encourages employers to implement highly flexible telework arrangements that allow employees to perform work, potentially at unconventional times, while tending to family and other responsibilities, such as teaching children whose schools are closed for COVID-19 related reasons.
- Allowing use of accrued leave balances (sick leave, vacation, compensatory time).
- Catastrophic paid leave banks.
- Allowing a negative sick leave balance (ranging from 80 to 120 hours) to be paid back when the employee returns to work.
- Paid leave for a period of time, above and beyond normal accruals.
- Redeploying employees to job duties they do not normally perform but are qualified to do, or using the time to work on "back-burner" projects.
- Establishing alternating days or extra shifts to reduce the total number of employees in a facility at a given time to allow for social distancing.
- Special provisions to keep the city's health insurance contribution in place beyond the 12 weeks required by the Family and Medical Leave Act.
- Also, see Question 13 below for information on mandated paid leave under the new federal Families First Coronavirus Response Act.

[Return to top of page \(#top\)](#)

## **Q2. What new state employment laws have been passed or amended in response**

## to the COVID-19 pandemic that are applicable to cities?

**A2.** There have been a flurry of actions at the state and federal level taken to assist employees and employers with this situation. To date, these are the state actions and implications to local government employers (read about federal actions in Question 13).

### Gov. Walz Executive Order — Unemployment Insurance

On March 16, 2020, Gov. Tim Walz issued an executive order to ensure workers affected by the COVID-19 pandemic have full access to unemployment benefits. The executive order makes applicants eligible for unemployment benefits if:

- A health care professional or health authority recommended or ordered them to avoid contact with others.
- They have been ordered not to come to their workplace due to an outbreak of a communicable disease.
- They have received notification from a school district, daycare, or other child care provider that either classes are canceled or the applicant's ordinary child care is unavailable, provided that the applicant made reasonable effort to obtain other child care and requested time off or other accommodation from the employer and no reasonable accommodation was available.

On April 6, 2020, [Emergency Executive Order No. 20-29](https://mn.gov/governor/assets/2a.%20EO%2020-29%20Final%20Filed_tcm1055-426997.pdf) ([https://mn.gov/governor/assets/2a.%20EO%2020-29%20Final%20Filed\\_tcm1055-426997.pdf](https://mn.gov/governor/assets/2a.%20EO%2020-29%20Final%20Filed_tcm1055-426997.pdf)) was issued requiring employers to notify separated employees about the availability of unemployment insurance benefits; it also suspends enforcement of Minnesota statutes that would typically delay unemployment benefits for those employees receiving vacation, sick, or personal time off. We believe this is an attempt to minimize any lags between when an employer stops paying and when the previous workers would begin receiving unemployment benefits. While we do not have any guidance to date on what should be included in the notification of availability of unemployment insurance benefits, the League has prepared a model notification for cities to review with their city attorney.

[—View the model Unemployment Insurance Notification \(doc\)](https://www.lmc.org/unemployment-insurance-notification/) (<https://www.lmc.org/unemployment-insurance-notification/>)

Additionally, it is our understanding under the federal CARES Act, the federal government will forgive 50% of reimbursing employer unemployment insurance costs, for at least some of the benefits mandated by the federal government through Dec. 31, 2020. (Many cities are reimbursing employers and pay the full costs of unemployment benefits when they occur vs. insurance premium payments to the state.) For purposes of estimating unemployment costs, this means reimbursing employers would owe the trust fund approximately 25% of the employee's regular wages, when those employees access the state's unemployment insurance benefits. The State's Unemployment Insurance team at the Department of Employment and Economic Development (DEED) is working through how this reimbursement will be implemented for cities' unemployment costs, and these FAQs will be updated when that guidance is available, But presently, their efforts are focused on paying Minnesotans out of work.

[—Learn more about state Unemployment Insurance & COVID](https://www.uimn.org/applicants/needtoknow/news-updates/covid-19.jsp) (<https://www.uimn.org/applicants/needtoknow/news-updates/covid-19.jsp>)

### Gov. Walz Stay at Home Executive Order

On March 25, 2020, Gov. Walz ordered Minnesotans to stay at home for two weeks (until April 10) to slow the spread of COVID-19. This was extended until May 4, 2020, in Executive Order 20-33.

[—Read FAQs about the Stay at Home order and how it affects cities](https://www.lmc.org/resources/stay-at-home-covid-19/) (<https://www.lmc.org/resources/stay-at-home-covid-19/>)

[Return to top of page \(#top\)](#)

## Q3. Can cities quarantine an employee who was in contact with someone who is awaiting COVID-19 test results?

**A3.** Generally speaking, a city would want to rely on a medical provider to classify whether an employee is on quarantine. Under state health law, if an employee has contracted or been exposed to COVID-19, the MDH can recommend the employee isolate themselves. Employees who are diagnosed with COVID-19 should follow guidance from public health officials and their doctor before being released from isolation and thus returning to work. Employers have an obligation (under OSHA) to keep their workplaces safe, and the [Department of Labor](https://www.dol.gov/agencies/whd/flsa/pandemic) (<https://www.dol.gov/agencies/whd/flsa/pandemic>) states an employer may encourage, or require, employees to telework as an infection-control or prevention strategy, provided the employer is not singling out employees on a basis prohibited by any of the Equal Opportunity Employment laws. In the absence of an order by a health care provider to self-quarantine, and in the event the position simply is not one that can work remotely, employers should encourage employees who are ill with pandemic influenza or are exposed to ill family members to stay home. Employers should also consider flexible leave policies for their employees in these circumstances, and review federal guidance to determine whether employees would qualify for emergency paid sick leave (under the Families First Coronavirus Response Act) or for unemployment. Recently, CDC Guidance has been updated for essential employees who have experienced a COVID-19 exposure but are experiencing no symptoms. Please see question #10 below.

[Return to top of page \(#top\)](#)

#### Q4. Can we terminate an employee who is not able to come to work due to COVID-19?

**A4.** Cities are strongly cautioned against terminating employees due to their inability to work during the COVID-19 pandemic. In addition to all of the normal employment protections (e.g., civil rights laws, collective bargaining agreements, the Americans with Disabilities Act), there are additional employee protections such as [Minnesota Statutes, section 144.4196](https://www.revisor.mn.gov/statutes/cite/144.4196) (<https://www.revisor.mn.gov/statutes/cite/144.4196>). This law provides protections for employees quarantined for up to 21 days.

[Return to top of page \(#top\)](#)

#### Q5. How do we protect public safety employees?

**A5.** MDH, the Occupational Safety and Health Administration (OSHA), and CDC offer guidance.

- [See the MDH website for information for first responders on COVID-19](https://www.health.state.mn.us/diseases/coronavirus/responders.html) (<https://www.health.state.mn.us/diseases/coronavirus/responders.html>).
- [See the OSHA guidance for higher risk industries](https://www.osha.gov/SLTC/covid-19/controlprevention.html) (<https://www.osha.gov/SLTC/covid-19/controlprevention.html>).
- [See the CDC guidance for law enforcement](https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-law-enforcement.html) (<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-law-enforcement.html>).
- [See the updated CDC guidance for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19](https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html) (<https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>)

[Return to top of page \(#top\)](#)

#### Q6. For our operations crew and first responder employees, how many hours per day or per week can an employee work?

**A6.** Federal or state law does not limit the number of hours per day or week that employees aged 18 or older can be required to work. OSHA in the past has offered some [helpful tips](https://www.osha.gov/OshDoc/data_Hurricane_Facts/faq_longhours.html) ([https://www.osha.gov/OshDoc/data\\_Hurricane\\_Facts/faq\\_longhours.html](https://www.osha.gov/OshDoc/data_Hurricane_Facts/faq_longhours.html)) to consider when scheduling employees for longer hours.

[Return to top of page \(#top\)](#)

#### Q7. Are workers exposed to COVID-19 eligible for workers' compensation?

**A7.** For injuries occurring on or after April 8, 2020, there is a new state law providing a presumption for COVID-19 workers' compensation claims, which applies to employees and volunteers working in certain occupations. Please see [Insurance Trust Coverage Response During COVID-19 Pandemic](https://www.lmc.org/insurance-trust/coverages/lmcit-coverage-covid/) (<https://www.lmc.org/insurance-trust/coverages/lmcit-coverage-covid/>) for more information.

[Return to top of page \(#top\)](#)

#### Q8. What about unemployment insurance benefits for our employees if their hours are reduced? What about paid on-call firefighters — are they covered?

**A8.** In addition to the special pandemic-related changes to unemployment insurance listed in Question 2 above, most city employees (including paid on-call firefighters) may be eligible for unemployment insurance benefits if their hours are reduced, as long as they are not receiving paid leave equivalent to their normal rate of pay.

When a person submits an application for unemployment benefits, the Unemployment Insurance Program uses the wages of ALL employers in the applicant's base period (with a few exceptions). Therefore, paid on-call firefighters may be eligible for compensation on both their full-time job wages and the paid on-call wages.

The Minnesota Department of Employment and Economic Development (DEED) has asked that employees use the website to file for benefits.

- [Apply for Unemployment Benefits](https://www.uimn.org/applicants/howapply/index.jsp) (<https://www.uimn.org/applicants/howapply/index.jsp>)
- [Learn more about unemployment benefits and COVID19](https://www.uimn.org/applicants/needtoknow/news-updates/covid-19.jsp) (<https://www.uimn.org/applicants/needtoknow/news-updates/covid-19.jsp>)

[Return to top of page \(#top\)](#)

## Q9. How do OSHA regulations apply to remote workers? What about ergonomics?

**A9.** The Department of Labor's Occupational Safety and Health Administration (OSHA) does not have any regulations regarding telework in home offices. The agency issued a directive in February 2000 stating that the agency will not conduct inspections of employees' home offices, will not hold employers liable for employees' home offices, and does not expect employers to inspect the home offices of their employees. With respect to ergonomic issues, the League of Minnesota Cities Insurance Trust has field representatives you can consult. You can reach them at (651) 281-1200 or (800) 925-1122.

—Read about [simple ergonomics tips when working from home in the LMC Pipeline blog](https://lmcpipeline.blogspot.com/2020/03/simple-ergonomic-tips-for-working-from.html) (<https://lmcpipeline.blogspot.com/2020/03/simple-ergonomic-tips-for-working-from.html>)

[Return to top of page \(#top\)](#)

## Q10. What is the HR policy to address an employee that may have been exposed? Can a city require isolation? Or check workers' temperatures?

**A10, Part A:** If a worker is exhibiting symptoms leading you to believe a positive diagnosis for COVID-19 is likely, you will want to send the employee home promptly and also ask the employee to identify all individuals he/she was in close proximity to (within six feet) during the prior 48-hour period (for additional information, read the [CDC's definition of close contact](https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assessment-hcp.html) (<https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assessment-hcp.html>)). In the event a worker calls in to the city to notify the city he or she tested positive for COVID-19, a city will also want to work through the above analysis to determine whether the employee has been working in close proximity with other city workers recently. While the city will want to consult with their city attorney and call the Minnesota Department of Health COVID-19 hotline (651-201-3920) for the most current guidance, it is our understanding those close proximity workers will then be sent home by the city. Cities will want to keep in mind, in accordance with the MN Data Practices Act and Americans with Disabilities Act, the city cannot identify the infected worker's name. In addition to the guidance from the MN COVID-19 hotline, cities can also consult the [CDC Public Health Recommendations for Community-Related Exposure](https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html) (<https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>). This CDC guidance includes staying home until 14 days after last exposure, maintaining social distance from others, and self-monitoring for symptoms (i.e., fever, cough, or shortness of breath).

Please be aware of the [CDC guidelines for critical infrastructure employees](https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html) (<https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>) with potential exposure but who are not presenting any COVID-19 symptoms. This guidance allows these specific employees to continue working provided they remain symptom free and the city implements additional precautions (for additional information, please refer to answer [A10, Part B \(#A10B\)](#) of these FAQs).

Additionally, if you need information regarding how to compensate your employees who are sent home or ill with COVID-19, please see Q&As [#1 \(#Q1\)](#), [#13 \(#Q13\)](#), [#15 \(#Q15\)](#), [#17 \(#Q17\)](#), [#20 \(#Q20\)](#), [#25 \(#Q25\)](#), [#26 \(#Q26\)](#), [#27 \(#Q27\)](#), [#30 \(#Q30\)](#) of these FAQs.

**A10, Part B: Exposure:** The CDC issued updated Interim Guidance (<https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>), for **critical infrastructure employees with potential exposure but who are not showing any COVID-19 symptoms**, to ensure continuity of operations of essential functions. These changes were announced during the White House coronavirus task force briefing on April 8, 2020. The CDC indicated this interim guidance applies to personnel in **16 different sectors of work** (<https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>) including local law enforcement, 911 call center employees, hazardous material responders, janitorial/custodian staff, and workers in informational technology, transportation and government facilities.

The new guidance focuses on implementing precautionary measures in the workplace for critical infrastructure employees in the event a worker is potentially exposed to COVID-19 (either through household contact or having close contact within six feet of someone with a confirmed or suspected COVID-19 case). The CDC notes the timeframe for having contact with an individual includes the period of time of 48 hours before that person became symptomatic ([fever, cough, shortness of breath](https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html), (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>))

Specifically, the CDC states the workers may be permitted to work, provided they don't show any symptoms and the following additional precautions are conducted prior to and during their work shift:

- **Pre-Screen temperature checks:** As a practical matter, it's important to consider an employee may be infected with COVID-19 without exhibiting recognized symptoms such as a fever. However, the CDC noted in their updated Interim Guidance, that employers should measure the employee's temperature and assess symptoms prior to them starting work. Ideally, this temperature check should happen before the individual enters the facility. Cities considering testing an essential employee's temperature must consult with their city attorney to analyze what type of device will be used, determine who will conduct those checks and how the testing process will work so testing is conducted privately, and the responding results are kept private (subject to ADA confidentiality requirements and only to be shared with those who have a legitimate need to know).
- **Regular Monitoring:** As long as the employee doesn't have a temperature or symptoms, the worker should self-monitor.
- **Wear a Mask:** The employee should wear a face mask at all times while in the workplace for 14 days after last exposure. Cities may issue facemasks or can approve employees-supplied cloth face coverings in the event of shortages. [Read CDC](#)

Guidance on cloth face masks. (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>) The CDC encourages employees and employers to consider pilot testing the use of face masks to ensure they do not interfere with essential work assignments.

- **Social Distance:** The employee should maintain six feet and practice social distancing as work duties permit in the workplace. The CDC also reminds employees to physically distance when they take breaks together. Stagger breaks and avoid congregating in the break room, and do not share food or utensils. Additionally, employees should not share headsets or other objects that are near mouth or nose.
- **Disinfect and Clean workspaces:** While many cities are already increasing the frequency of cleaning commonly touched surfaces, in the event of possible exposure, employers will want to routinely clean and disinfect all areas such as offices, bathrooms, common areas, and shared electronic equipment. Employers should work with facility maintenance staff to increase air exchanges in rooms.

The CDC further advises if the essential worker becomes sick during the day the employee should be sent home immediately. Surfaces in their workspace should be cleaned and disinfected. The city will want to compile a list of anyone the worker was in contact with within two days prior to the worker being symptomatic but maintain confidentiality as required by the Americans with Disabilities Act (ADA).

—For more information see the CDC's interim guidance for businesses and employers (<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>)

Under state health law, if an employee has contracted or been exposed to COVID-19, the MDH can recommend the employee isolate themselves. As addressed in Question 4 above, Minnesota law protects employees who are absent for up to 21 workdays because of isolation or quarantine. See Minnesota Statutes, section 144.4196 (<https://www.revisor.mn.gov/statutes/cite/144.4196>) for more information. Employers have an obligation (under OSHA) to keep their workplaces safe; during a pandemic, employers should err on the side of sending sick employees home.

[Return to top of page \(#top\)](#)

## Q11. If an employee has been diagnosed with COVID-19, when can they return to work?

**A11.** Thus far we have been recommending following CDC guidelines (<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>): Employees should notify their supervisor and stay home if they are sick. See CDC Guidance for Businesses (<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>).

Per the CDC (<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>), there are two options for determining when a person may end home isolation after they are ill, using either a time-since-recovery option, or a test-based option.

- **Time since recovery:** Persons with COVID-19 who have symptoms and were directed to care for themselves at home may stop home isolation under the following conditions:
  - No fever for at least 72 hours without the use of fever-reducing medications;
  - Other symptoms have improved (e.g., cough, shortness of breath have improved); and
  - At least seven days have passed since symptoms first appeared.
- **Test-based:** To determine if a person is still contagious, he or she can leave home if these three things have occurred:
  - Resolution of fever without the use of fever-reducing medications;
  - Other symptoms have improved (e.g., cough, shortness of breath have improved); and
  - The individual received two negative tests in a row, 24 hours apart.

Based on CDC guidelines, we are suggesting employers NOT require a return to work statement from a doctor to allow medical providers to concentrate on treating those with COVID-19; additionally, it is unlikely the employee will be able to obtain one.

[Return to top of page \(#top\)](#)

## Q12. How do cities process I-9s for new hires during the COVID pandemic?

**A12.** Employers can implement a Form I-9 remote document if city offices are closed and staff are working remotely, however, you must follow the guidelines set by the federal government. This includes:

- Providing each new hire with the city's telework policy and maintaining evidence this requirement was met.
- Review documents remotely (e.g., over video link, fax or email, etc.).
- Record COVID-19 in "Additional Information" field of Section 2.
- Review original documents within three days of resuming normal operations.
- Once physical inspection takes place after normal operations resume, "documents physically examined" should be included in "Additional Information" field of Section 2.

[—Learn more from the Department of Homeland Security's website \(https://www.ice.gov/news/releases/dhs-announces-flexibility-requirements-related-form-i-9-compliance\)](https://www.ice.gov/news/releases/dhs-announces-flexibility-requirements-related-form-i-9-compliance)

[Return to top of page \(#top\)](#)

## Q13. What are the requirements of the new federal Families First Coronavirus Response Act (FFCRA)?

**A13.** The new law (H.R. 6201) impacts employers in two key respects: it requires Emergency Family and Medical Leave Act (FMLA) leave be provided to qualifying employees and requires that Emergency Paid Sick Leave be offered to an employee who is unable to work due to specific impacts of COVID-19. The law took effect on April 1 and will sunset on Dec. 31, 2020, as the law is meant to specifically address concerns around COVID-19.

It is important to note, regardless of how much accrued leave an employee has through their employer, eligible employees can take any and all Public Health Emergency and Emergency Paid Sick Leaves they are entitled to (as noted below).

- [View a chart of paid leave and wage loss benefits for COVID-19 under FFCRA \(https://www.canva.com/design/DAD4snt21HM/Hszp8RPDgQLQVAK4lhZUiA/view\)](https://www.canva.com/design/DAD4snt21HM/Hszp8RPDgQLQVAK4lhZUiA/view) (Note: Please use the chart in conjunction with more detailed information provided below.)
- [View decision trees to work through FFCRA leaves from Gallagher consultants \(pdf\) \(https://ajg.adobeconnect.com/covid19leavedecide/\)](https://ajg.adobeconnect.com/covid19leavedecide/)

## Emergency Family and Medical Leave (FMLA) Expansion Act

The **Public Health Emergency Leave** is an amendment to the FMLA, providing a new category for eligible full-time and part-time employees. All political subdivisions of the state, regardless of size, must comply. Employers may, however, exclude employees who are health care providers or emergency responders. This eligibility for a specific circumstance is a notable change from the “traditional” FMLA. Under traditional FMLA, generally speaking, provisions do not apply to employers with fewer than 50 employees, whereas Public Health Emergency Leave applies to all cities.

Question #49 of the DOL's FFCRA FAQs (<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>) clarifies that the Emergency Family and Medical Leave Expansion Act does not distinguish between full- and part-time employees, but the number of hours an employee normally works each week affects the amount of pay the employee is eligible to receive.

This portion of the bill amends the FMLA by granting up to 12 weeks of job-protected leave to employees to care for children because school has been closed or they are without child care, due to a public health emergency. A “public health emergency” is defined to mean “an emergency with respect to COVID-19 declared by a federal, state, or local authority.” Thus, the Public Health Emergency Leave does not increase the total number of FMLA weeks an employee has available; it is still 12 weeks, but the act simply adds a new category of leave for employees to access.

Employees who have been employed for at least 30 calendar days are eligible for this specific expanded family medical leave. The **April 1 DOL guidance** (<https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf>) reiterates this different eligibility criteria is solely for the Public Health Emergency Leave, reiterating “not all employees who are eligible to take expanded family and medical leave will be eligible to take FMLA leave for other reasons.” An employee is considered to have been employed for at least 30 calendar days if an employee has been on the city's payroll for the 30 calendar days immediately prior to the day the leave begins. The **DOL FFCRA FAQs** (<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>) provide the following example to illustrate the 30 days: If an employee wants to take leave on April 1, 2020, that employee would need to have been on the city's payroll as of March 2, 2020. In the event a city has a temporary employee who is subsequently hired as a full-time employee, the city will want to count days the employee worked as a temporary employee toward the 30-day eligibility period.

In the April 1 DOL guidance, eligibility for Public Health Emergency Leave was expanded to employees who were laid off or otherwise terminated on or after March 1, 2020, provided:

- The employer rehires or otherwise reemploys the employee on or before Dec. 31, 2020, and
- The employee has been on the city's payroll for 30 or more of the 60 calendar days prior to the date the employee was laid off or terminated.

The act provides leave for employees who are unable to work (or telework) because they need to care for a son or daughter whose:

- School or place of care has been closed, or
- Child care provider is unavailable due to a public health emergency.

A part-time employee is entitled to leave for his or her average number of work hours in a two-week period. To count the hours worked by a part time employee, the **DOL FFCRA FAQs** (<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>) state an employer will calculate hours of leave based on the number of hours the employee is normally scheduled to work. If the normal hours scheduled are unknown, or if the part-time employee's schedule varies, you may use a six-month average to

calculate the average daily hours. Such a part-time employee may take paid sick leave for this number of hours per day for up to a two-week period and may take expanded Family and Medical Leave for the same number of hours per day up to 10 weeks after that.

The [DOL FFCRA FAQs \(https://www.dol.gov/agencies/whd/pandemic/ffcrfa-questions\)](https://www.dol.gov/agencies/whd/pandemic/ffcrfa-questions) provide further guidance stating, if this calculation cannot be made because the employee has not been employed for at least six months, use the number of hours that you and your employee agreed that the employee would work upon hiring. And if there is no such agreement, the [April 1 DOL \(https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA.pdf\)](https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA.pdf) guidance states an employer will use the average number of hours per workday the employee was scheduled to work over the entire period of employment, including hours for which the employee took leave of any type.

Typically, an employer is not required to provide paid leave under traditional FMLA; however, for Public Health Emergency Leave, only the first two weeks of such leave may be unpaid. The April 1 DOL guidance affirms that the unpaid period for employees who work regular Monday through Friday schedules would be 10 days because that is the number of days they would work in two weeks. However, the following 10 weeks must be paid at no less than two-thirds the regular rate of pay for the number of hours the employee would otherwise be normally scheduled to work. To reiterate, this specific type of leave is taken because the employee must care for a child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

Employees may elect to substitute any accrued vacation leave or sick leave for the initial two weeks of unpaid leave, but an employer may not require an employee to substitute any such leave. In some cases, such as when an employee is caring for their child whose school or place of care is closed or whose child care provider is unavailable due to COVID-19 related reasons, employees may elect to overlap the initial two weeks of unpaid leave with two weeks covered by the new Emergency Paid Sick Leave, so the cap would be subject to \$200 per day or \$12,000 for the 12 weeks when the employee is on leave to care for their child.

The Public Health Emergency Leave requires an employer to pay an employee, using the regular rate of pay, for hours the employee would have been normally scheduled to work. For purposes of the FFCRA, the regular rate of pay is the average of an employee's regular rate over a period of up to six months prior to the date on which the leave begins. The DOL, in its April 1 guidance, notes such an average should be weighted by the number of hours worked each workweek and provides an example on page 32 of the guidance.

For some employees, the regular rate of pay may include overtime. Because there are circumstances when both the Public Health Emergency Leave and Emergency Paid Sick Leave would be in play (such as for when school or child care is closed due to COVID-19 and the employee needs to care for children), it's important to be mindful of the daily and aggregate caps. Recall under the Emergency Paid Sick Leave Act, sick leave may be paid only up to 80 hours over a two-week period. The [DOL FFCRA FAQs \(https://www.dol.gov/agencies/whd/pandemic/ffcrfa-questions\)](https://www.dol.gov/agencies/whd/pandemic/ffcrfa-questions) note, in an example, an employee who is scheduled to work 50 hours a week may take 50 hours of paid sick leave in the first week and 30 hours of paid sick leave in the second week, and states in any event, the total number of hours paid under the Emergency Paid Sick Leave Act is capped at 80. However, that pay under either does not need to include a premium for overtime hours under either the Emergency Paid Sick Leave Act or the Emergency Family and Medical Leave Expansion Act.

The [April 1 DOL guidance \(https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA.pdf\)](https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA.pdf) notes FFCRA regulations do not require employers to provide employees requesting to use Public Health Emergency Leave with notices of eligibility, rights and responsibilities, or a written designation that leave use counts against employee's FMLA leave allowances. As a best practice, cities may want to develop notices for this leave to comport with their "traditional" FMLA practices.

The [DOL FAQs provided guidance \(https://www.dol.gov/agencies/whd/pandemic/ffcrfa-questions\)](https://www.dol.gov/agencies/whd/pandemic/ffcrfa-questions) (in questions 15-16) on what documentation employers can use to substantiate the need for Public Health Emergency Leave, including a notice of closure or unavailability from a child's school or child care provider, such as a notice posted on a government, school or day care website. As well as a notice published in a newspaper or e-mailed to the employee from a school official or child care provider.

There is an exception to the job protection provisions for employers with fewer than 25 employees if the employee's position does not exist after Public Health Emergency Leave due to an economic downturn or other operating conditions that affect employment caused by the COVID-19 pandemic, but specific conditions must be met.

See page 54 of the [April 1 DOL guidance \(https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA.pdf\)](https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA.pdf) for these requirements. Additionally, the "key" employee exception under "traditional" FMLA is applicable to leave taken under Public Health Emergency Leave. See information beginning on page 11 of the [League's FMLA memo \(https://www.lmc.org/resources/family-and-medical-leave-act/\)](https://www.lmc.org/resources/family-and-medical-leave-act/) for additional details on key employees.

The DOL, in its April 1 guidance, notes for leave taken under "traditional" FMLA for an employee's own serious health condition related to COVID-19, or to care for the employee's own spouse, son or daughter, or parent with a serious health condition related to COVID-19, the "traditional" [FMLA certification requirements \(https://www.law.cornell.edu/cfr/text/29/825.306\)](https://www.law.cornell.edu/cfr/text/29/825.306) still apply. However, cities will want to be mindful that during the COVID-19 pandemic, medical documentation from providers may be difficult to obtain.

Employers of health care providers or emergency responders may elect to exclude such employees from this leave. (Refer to Question #25 below for additional information.)

- View LMC model form: Employee Request for Public Health Emergency Leave (doc) (<https://www.lmc.org/employee-request-for-public-health-emergency-leave/>)
- View LMC model form: Designation Notice for Public Health Emergency Leave (doc) (<https://www.lmc.org/designation-notice-for-public-health-emergency-leave/>)
- View checklist by Gallagher consulting on FFCRA Leave and Employer Recordkeeping Requirements (pdf) (<https://ajg.adobeconnect.com/ffcraerrecords/>)

## Emergency Paid Sick Leave Act

Subject to a few exceptions, all public agencies must provide their eligible employees with Emergency Paid Sick Leave. Further, section 5110 of the FFCRA (<https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf>) states the term “covered employer” in the emergency sick leave provisions apply to “public agency[ies] or any other entity that is not a private entity or individual, employs 1 or more employees.”

This provision of the act requires applicable employers (like cities) to provide employees with a maximum of two weeks of paid sick leave (paid at the full regular rate) for employees who are unable to work or telework because they need to:

- Quarantine. Documentation an employee could provide to the city in support of paid sick leave would include the name of the government entity issuing the quarantine or isolation the employee is subject to (in this case Governor Walz’s Stay at Home Executive Order) or the name of the health care provider who advised the employee to self-quarantine for COVID-19 related reasons. In the April 1 DOL guidance (<https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf>), it was clarified that if the employer has closed, and there is no available work for the employee, then Emergency Paid Sick Leave would not be appropriate (because the employee would be unable to work even if he or she were not required to comply with the quarantine or isolation order). In those cases, an employee would file for unemployment since there no work available. The guidance further states, if an employee is subject to a quarantine or isolation order, but the employer permits the employee to telework and there are no extenuating circumstances preventing the employee from performing that work, that employee is ineligible for Emergency Paid Sick Leave (due to the fact they are teleworking).
- Seek a diagnosis or preventive care for coronavirus. The April 1 DOL guidance states Emergency Paid Sick Leave for this reason is limited to the time the employee is unable to work because he or she is taking affirmative steps to obtain a medical diagnosis (i.e., the time spent making, waiting for, or attending an appointment for a test for COVID-19), but specifies the employee may not take Emergency Paid Sick Leave to self-quarantine without seeking a medical diagnosis. The guidance further notes in the case of an employee who exhibited COVID-19 symptoms and seeks medical advice but is told he or she does not meet the criteria for testing and is advised to self-quarantine, that employee is generally eligible for Emergency Paid Sick Leave.

In these circumstances, there is a cap of \$511/day or \$5,110 total over the entire two-week paid sick leave period.

However, two-thirds of the employee’s regular rate must be paid to:

- Care for a family member who has been quarantined or advised by a health care provider to self-quarantine. The April 1 DOL guidance (<https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf>) states the individual being cared for must be an immediate family member, roommate, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person due to the quarantine. Documentation an employee would provide to the city in support of paid sick leave for this situation could include the name of the government entity that issued the quarantine or isolation the employee is subject to (in this case Governor Walz’s Stay at Home Executive Order), or the name of the health care provider who advised the employee to self-quarantine for COVID-19 related reasons.
- Care for a child whose school has closed or whose child care provider is unavailable due to the coronavirus. The April 1 DOL guidance clarifies if an employer does not have available work (e.g., if the place of employment is closed and the employee cannot telework), an employee may not take paid sick leave. In that case, the employee could file for unemployment. The guidance further clarifies Emergency Paid Sick Leave is only for the period when the employee needs to, and actually is, caring for his or her child. Stating, “generally, an employee does not need to take Emergency Paid Sick Leave if another suitable individual – such as a co-parent, co-guardian, or the usual child care provider – is available to provide the care for the employee’s child needs.” Also, in the case of a 15- to 17-year old child, the employee must identify “special circumstances” requiring the employee to provide care. Documentation an employee would provide to the city in support of this Emergency Paid Sick Leave situation would include: (1) the name of the child being cared for; (2) the name of the school, place of care, or child care provider that closed or became unavailable due to COVID-19 reasons; and (3) a statement representing that no other suitable person is available to care for the child during the period of requested leave.
- Tend to any other substantially similar condition that may arise, as specified by the Secretary of Health and Human Services (as of the date of these FAQs, this situation is not in play).

In these circumstances, there is a cap of \$200/day or \$2,000 total over the entire two-week paid sick leave period.

In the event your city has opted to provide any of these leaves to your employees, the authority for sick leave and other related benefits should satisfy the public purpose doctrine for these expenditures. Minnesota courts have held that the “public purpose” doctrine should be “broadly construed to comport with the changing conditions of modern life.” *Short Co. v. City of Minneapolis*, 269 N.W.2d 331 (Minn. 1978). In addition, remember that the state auditor emphasizes the importance of governing bodies to accurately record pay and benefit decisions in your meeting minutes.

Emergency Paid Sick Leave is a benefit for all eligible employees for up to 80 hours of paid sick time, regardless of the employee's length of employment. Full-time employees are entitled to two weeks (80 hours) of paid sick time and part-time employees (defined under question #49 of the [DOL's FFCRA FAQs](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)) as an employee who is normally scheduled to work fewer than 40 hours per week, are entitled to paid sick time based on the number of hours equal to the average number of hours that the employee normally works in a two-week period.

In the [April 1 DOL guidance](https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA.pdf), employers are directed to use the daily average a variable scheduled employee works to compute the two-week average. Thus, employers will want to take the number of hours the variable scheduled employee was scheduled per calendar day, averaged over the past six-month period prior to the date on which the leave begins. Alternatively, an employer may also use twice the number of hours that an employee was scheduled to work per workweek, averaged over the six-month period. The calculation will yield Emergency Paid Sick Leave for a variable employee equal to 14 times the average number of hours the employee was scheduled to work per calendar day (including any vacation, PTO, or sick leave hours the employee used) over the six-month period ending on the date on which the employee takes paid sick leave.

The Department of Labor's April 1 guidance states if this calculation cannot be made because the employee has not been employed for at least six months, use the number of hours that you and your employee agreed that the employee would work upon hiring. And if there is no such agreement, you may calculate the appropriate number of hours of leave based on the average hours per day the employee was scheduled to work over the entire term of his or her employment.

Any unused paid leave granted by the act does not carry over into 2021.

Employers of health care providers or emergency responders may elect to exclude such employees from this leave. (Refer to Question #25 below for additional information.)

—[View LMC model form: Request for Emergency Paid Sick Leave \(doc\)](https://www.lmc.org/request-for-emergency-paid-sick-leave/)

## Reimbursement

As passed, the Families First Coronavirus Response Act implements significant mandates on local governments as employers to provide expanded leave to employees, but unfortunately, language in the bill expressly prohibits government employers from receiving the tax credits to offset the costs of providing such leave.

A concerted effort by the National League of Cities and the League of Minnesota Cities to amend this language in the more recently passed CARES Act (third COVID-19 stimulus package) was not successful. As a result, the language in the *Families First Coronavirus Response Act* (PL 116-127) remains and governmental employers are prohibited from receiving any benefit of the payroll tax credits for providing paid sick and paid emergency family leave. We are aware of efforts at the federal level to continue to attempt to fix this issue should there be any further COVID-19 stimulus packages. Because this is in flux, might be a good idea to start tracking as of April 1 any paid leave benefits granted under this act. Some cities are considering coding any leave under this act as a specific code in their payroll systems so they can more easily generate a report if needed down the line. For further information about the tax credits available to private employers, please visit the [IRS' Coronavirus Tax Relief page](https://www.irs.gov/coronavirus).

- [See the text of the Families First Coronavirus Response Act \(pdf\)](https://docs.house.gov/billssthisweek/20200309/BILLS-116hr6201-SUS.pdf)
- [Get additional information on the leave provisions from the U.S. House of Representatives \(pdf\)](https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/2020-03-17%20Emergency%20Paid%20Sick-Family%20Leave%20Fact%20Sheet%20Enrolled%20FINAL.pdf)
- [Read FAQs from DOL about the FFCRA](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)
- [Get more information about FFCRA from the DOL website](https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave)

[Return to top of page \(#top\)](#)

## Q14. With the Stay at Home order by Gov. Walz, is that deemed a quarantine or isolation that allows employees to access Emergency Paid Sick Leave?

**A14.** Very likely, but the city will want to make an initial determination whether there is available work for the employee. Essentially, an employee may take paid sick leave only if being subject to one of these orders prevents him or her from working or teleworking.

Specifically, in the [April 1 DOL guidance](https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA.pdf), it was clarified that if an employer has closed, and there is no available work for the employee, then Emergency Paid Sick Leave would not be appropriate (because the employee would be unable to work even if he or she were not required to comply with the quarantine or isolation order). In those cases, an employee would file for unemployment due to no available work. The guidance further states, if an employee is subject to a quarantine or isolation order, but the employer permits the employee to telework, and there are no extenuating circumstances preventing the employee from performing that work, that employee is ineligible for Emergency Paid Sick Leave (due to that fact they are working via teleworking).

For reference, in the April 1 DOL guidance, there is language stating, “quarantine or isolation orders include a broad range of governmental orders, including orders that advise some or all citizens to shelter in place, stay at home, quarantine, or otherwise restrict their own mobility.” Essentially, an employee may take paid sick leave only if being subject to one of these orders prevents him or her from working or teleworking

[Return to top of page \(#top\)](#)

## Q15. Can you please address how Emergency Paid Sick Leave might overlap with Public Health Emergency Leave?

**A15.** The Public Health Emergency Leave only applies if an employee is unable to work (or telework) due to the need to care for a child if the child's school, or child care provider is closed due to a public health emergency (like that of COVID-19). If that situation is in play for your employee and the employee has worked for you for the eligibility criteria outlined in question #13 (whereas the Emergency Paid Sick Leave is immediately available to employees), then the employee is eligible for up to 12 weeks of FMLA leave (assuming they have not already previously used any FML time within your defined 12-month period). Ten of those weeks will be paid at two-thirds the rate of the employee's regular pay, and the first two weeks of that leave are unpaid. Employee can elect to use their accrued employer provided leave balances for the first two weeks (which arguably may be paid at the employee's full rate of pay), can elect to use up to 80 hours of Emergency Paid Leave or take those two weeks as unpaid. For the case of an employee caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19, they would be eligible for up to two weeks of Emergency Paid Sick Leave paid at two-thirds their regular rate of pay, up to a cap of \$200/day (\$10,000 in the aggregate, or no more than \$12,000 in the aggregate when combined with two weeks of the Emergency Paid Sick Leave).

In the event an employee has exhausted his or her 12 weeks of “traditional” FMLA or the 12 weeks of Public Health Emergency Leave, (and assuming the employee has not already used the two weeks of Emergency Paid Sick Leave) the [April 1 DOL guidance \(https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf\)](https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf) reiterates the employee may still be eligible for the two weeks of Emergency Paid Leave for a COVID-19 qualifying reason.

[Return to top of page \(#top\)](#)

## Q16. For the Emergency Paid Sick Leave, the up to 80 hours is regardless of if the employee has accrued time available, correct?

**A16.** Yes, the Emergency Paid Sick Leave is in addition to any accrued banks of leave the employee may currently possess. Further, the act includes an express provision that an employer may not require an employee to use other paid leave provided by the employer to the employee before the employee uses the paid sick time.

[Return to top of page \(#top\)](#)

## Q17. Can an employee supplement with their own accrued leave to receive a full check in cases where they are receiving two-thirds pay under Public Health Emergency Leave or Emergency Paid Sick Leave?

**A17.** We tend to think so, but this election is at the employee's choice and the employer cannot require an employee to supplement the FFCRA leaves. In question #32 of earlier DOL guidance, the DOL stated, “Under the FFCRA, the employee may choose to use existing paid vacation, personal, medical, or sick leave from your paid leave policy to supplement the amount your employee receives from paid sick leave or expanded family and medical leave, up to the employee's normal earnings. Note, however, that you are not entitled to a tax credit for any paid sick leave or expanded family and medical leave that is not required to be paid or exceeds the limits set forth under Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act.” However, it is important to note, the Act currently expressly prohibits government employers from receiving the tax credits to offset the costs of providing such leave. (See question #13 above for additional information).

The DOL offers guidance specifically on supplementing Public Health Emergency Leave in their April 1 guidance, noting an employee may take the first two weeks of Public Health Emergency Leave as unpaid, elect to take Emergency Paid Sick Leave at two-thirds the employee's regular rate of pay, or use his or her accrued leave through the employer. After the first two weeks of leave, Public Health Emergency Leave is paid at two-thirds an eligible employee's regular rate of pay, up to \$200 per day. Because this period of Public Health Emergency Leave is paid, the DOL notes on page 110 of its [April 1 guidance \(https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf\)](https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf), the “traditional” FMLA provision for substitution of the employee's accrued paid leave is inapplicable, and neither the eligible employee nor the employer may require the substitution of paid leave. However, cities and eligible employees may agree, to have paid leave supplement pay under the Public Health Emergency Leave so that the Employee receives the full amount of his or her normal pay.

[Return to top of page \(#top\)](#)

## Q18. Can an employee access Public Health Emergency Leave or Emergency Paid

## Sick Leave for care of a grandchild?

**A18.** Possibly, if the employee was considered “in loco parentis” for the child. In [DOL’s FFCRA FAQs](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions), (<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>) the definition of son or daughter includes an employee’s biological, adopted, or foster child, stepchild, a legal ward, or a child for whom you are standing in loco parentis—someone with day-to-day responsibilities to care for or financially support a child. For additional information regarding “in loco parentis” please refer to [Fact Sheet #28B](https://www.dol.gov/agencies/whd/fact-sheets/28B-fmla-in-loco-parentis) (<https://www.dol.gov/agencies/whd/fact-sheets/28B-fmla-in-loco-parentis>) where it states, “In loco parentis refers to a relationship in which a person puts himself or herself in the situation of a parent by assuming and discharging the obligations of a parent to a child. The in loco parentis relationship exists when an individual intends to take on the role of a parent to a child who is under 18 or 18 years of age or older and incapable of self-care because of a mental or physical disability. Although no legal or biological relationship is necessary, grandparents or other relatives, such as siblings, may stand in loco parentis to a child under the FMLA, as long as the relative satisfies the in loco parentis requirements.”

In the [April 1 DOL guidance](https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf) (<https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf>), under both Public Health Emergency e and Emergency Paid Sick Leaves, the definition of child is mirrored and includes children under 18 years of age as well as children age 18 or older who are incapable of self-care because of a mental or physical disability.

[Return to top of page \(#top\)](#)

## Q19. Can the paid leaves under the FFCRA be used intermittently?

**A19.** Generally, yes, provided the employer and employee are in agreement. The [DOL’s April 1 guidance](https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf) (<https://www.dol.gov/sites/dolgov/files/WHd/Pandemic/FFCRA.pdf>), reiterates this with no leave under the FFCRA may be taken intermittently without agreement by both the employer and employee. In earlier [DOL Q&As](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions) (<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>), the Department encourages employers and employees to collaborate to achieve flexibility and meet mutual needs. The Department notes that it is supportive of such voluntary arrangements that combine telework and intermittent leave. In the April 1 DOL guidance, it is noted that providing this intermittent leave flexibility during the COVID-19 pandemic should not be construed as undermining the employee’s exempt status under the FLSA.

While the April 1 DOL guidance noted a written agreement outlining both parties’ agreement is not required, it is noted there needs to be clear and mutual understanding between the parties that the employee may take intermittent paid sick leave or intermittent expanded family and medical leave, or both. Further, where an employer and employee agree to the intermittent leave, there needs to be agreement on the increments of time in which leave may be taken. Thus, cities may want to talk with their legal counsel on how best to document any intermittent arrangement.

[Return to top of page \(#top\)](#)

## Q20. If we have an employee on 14-day quarantine due to possible exposure, can they use the 80-hour FFCRA leave? Or is it better to use paid administrative leave?

**A20.** As of April 1, if the employee has been advised by a health care provider to self-quarantine related to COVID-19, then that is a qualifying reason for up to 80 hours of Emergency Paid Sick Leave at their regular rate, up to \$511 per day and \$5,110 in the aggregate. Prior to April 1, the city would follow its typical paid leave policies.

[Return to top of page \(#top\)](#)

## Q21. If schools are not open in person, but for distance learning, does the FFCRA cover employees who want or need to stay home with their children during the distance learning?

**A21.** Touch base with your city attorney, but with schools and likely many day cares closed due to COVID-19 (regardless of whether there is virtual learning, since arguably the children still need someone to watch over them), and in the event work (or telework) is not available for your employees, it seems like Emergency Paid Sick Leave and extended FMLA leave would be benefits available for those workers.

[Return to top of page \(#top\)](#)

## Q22. Are Public Health Emergency Leave and Emergency Paid Sick Leave paid benefits subject to Public Employees Retirement Association (PERA)?

**A22.** League staff spoke with PERA on March 26 and confirmed that both the emergency FMLA and Paid Sick Leave are PERA reportable. Visit PERA’s [COVID-19 Q&A web page](https://www.mnpera.org/about/covid-19/) (<https://www.mnpera.org/about/covid-19/>).

[Return to top of page \(#top\)](#)

## Q23. Can an employee stay home under the FMLA expansion to avoid getting COVID-19?

A23. The FMLA protects eligible employees who are incapacitated by a serious health condition, as may be the case with the flu where complications arise, or who are needed to care for covered family members who are incapacitated by a serious health condition. Generally speaking, leave taken by an employee for the purpose of avoiding exposure to the flu would not be protected under the FMLA. Employers should encourage employees who are ill with pandemic influenza or are exposed to ill family members to stay home and should consider flexible leave policies for their employees in these circumstances.

If a city finds itself in a position where an employee expresses fears working due to COVID-19 concerns, a conversation with the city attorney is vital to balance employee rights and city business needs. Generally speaking, a city will want to engage in an interactive process to better understand the employee's specific concerns, and as with any accommodation request, the EEOC notes in their [Guidance on COVID-19 and the Americans with Disabilities Act \(ADA\)](#) ([https://www.eeoc.gov/eeoc/newsroom/wysk/wysk\\_ada\\_rehabilitation\\_act\\_coronavirus.cfm](https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitation_act_coronavirus.cfm)) employers may: ask questions to determine whether the condition is a disability; how the disability creates a limitation, how the requested accommodation will effectively address the limitation, whether another form of accommodation could effectively address the issue; and how a proposed accommodation will enable the employee to continue performing the "essential functions" of his position (that is, the fundamental job duties).

[Return to top of page \(#top\)](#)

## Q24. I understand there will be some posting requirements related to FFCRA. What does that include?

A24. Cities will want to post this [notice of the FFCRA requirements](#) ([https://www.dol.gov/sites/dolgov/files/WHd/posters/FFCRA\\_Poster\\_WH1422\\_Non-Federal.pdf](https://www.dol.gov/sites/dolgov/files/WHd/posters/FFCRA_Poster_WH1422_Non-Federal.pdf)) by March 31 in a conspicuous place at your premises, but employers can satisfy this requirement by emailing or direct mailing this notice to employees or posting it on an employee information internal or external website. You may notice, there are two posters on the [DOL workplace posters website](#) (<https://www.dol.gov/agencies/whd/posters>); cities will want to post and share the *non-federal*, "Employee Rights: Paid Sick Leave and Expanded Family and Medical Leave under the Families First Coronavirus Response Act" (WHD1422 REV 03/20) poster ([https://www.dol.gov/sites/dolgov/files/WHd/posters/FFCRA\\_Poster\\_WH1422\\_Non-Federal.pdf](https://www.dol.gov/sites/dolgov/files/WHd/posters/FFCRA_Poster_WH1422_Non-Federal.pdf)). We have heard the notice may be updated again, so you may want to check to ensure you have the most up to date version to share. Cities are not required to post this notice in multiple languages, but the Department of Labor (Department) has issued a Spanish language version of the poster. Additionally, the Department of Labor offers some [notice FAQs](#) (<https://webapps.dol.gov/dolfaq/dolfaqbytopic.asp?topicID=17&topicTitle=Posters>) you may want to read.

Notably, if have new hires you must convey this notice to them either by email, direct mail, or by posting this notice on the premises or on an employee information internal or external website.

[Return to top of page \(#top\)](#)

## Q25. Can you tell me more about the FFCRA health care providers and medical responders exemptions and why the exemptions exist?

A25. Employers of health care providers or emergency responders may elect to exclude such employees from the Public Health Emergency and Emergency Paid Sick Leaves. In question #57 of the [DOL's FFCRA FAQs](#) (<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>), the DOL defines emergency responders who may be excluded from paid sick leave or expanded family and medical leave by their employer under the FFCRA, as an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. (Refer to additional content regarding the health care providers and emergency responders exclusion under Public Health Emergency Leave section.)

In the April 1 DOL guidance, this exclusion was explained as a balance struck by the FFCRA. "On the one hand, the FFCRA provides for paid sick leave and expanded family and medical leave so employees will not be forced to choose between their paychecks and the individual and public health measures necessary to combat COVID-19. On the other hand, providing paid sick leave or expanded family and medical leave does not come at the expense of fully staffing the necessary functions of society, including the functions of emergency responders. The FFCRA should be read to complement—and not detract from—the work being done on the front lines to treat COVID-19 patients, prevent the spread of COVID-19, and simultaneously keep Americans safe and with access to essential services. Therefore, the Department interprets 'emergency responder' broadly."

[Return to top of page \(#top\)](#)

## Q26. Is it an option to exclude Emergency Responders from the Public Health Emergency Leave, but not the Emergency Paid Sick Leave, or visa versa?

**A26.** We have consulted with a local benefits attorney and understand that given the fact that the two types of leave are governed by different laws and each law separately gives an employer the ability to exclude emergency responders, it seems like the answer is yes, a city could exclude emergency responders from one leave and not the other, or exclude emergency responders from both leaves. Thus, a city could exclude emergency responders from being eligible for Public Health Emergency Leave, but allow them to receive Emergency Paid Sick Leave.

[Return to top of page \(#top\)](#)

## Q27. If we exempt health care workers or emergency responders from the leave granted under the FFCRA, can they take other kinds of leave?

**A27.** Yes, an employer's exercise of this option does not authorize an employer to prevent an employee who is a health care provider or emergency responder from taking earned or accrued leave in accordance with established employer policies. Therefore, the city may be required to grant other forms of paid leave, depending on the circumstances of the employee's request. Consult your city attorney for clarification.

[Return to top of page \(#top\)](#)

## Q28. As an employer, how long do I need to retain documentation relating to FFCRA leaves?

**A28.** Four years. Specifically, an employer is required to retain all documentation for four years, regardless of whether leave was granted or denied. In the [DOL's April 1 guidance \(https://www.dol.gov/sites/dolgov/files/WHD/Pandemic/FFCRA.pdf\)](https://www.dol.gov/sites/dolgov/files/WHD/Pandemic/FFCRA.pdf), it is noted if an employee provides oral statements to support his or her request for Emergency Paid Sick Leave or Public Health Emergency Leave, the employer is required to document and retain such information for four years.

[Return to top of page \(#top\)](#)

## Q29. Is it true that all employers (including governments) are exempt from paying the employer's share of the social security tax on wages paid under the FFCRA?

**A29.** Yes. Local governments are not allowed to use the tax credits, but the employer portion (equivalent to 6.2%) of the OASDI tax imposed by Section 3111(a) of the Code, which is also known as the social security tax, is exempted. (However, the employee portion of the social security tax is not exempted.) We have verified that payments made to employees taking paid leave pursuant to the FFCRA are not subject to the employer portion of the OASDI tax imposed by Section 3111(a) of the IRS Code (i.e., the 6.2%), which is also known as the social security tax. Unlike the "tax credit" section of the act, this particular section does not include an exclusion for governmental employers; therefore, the rule applies to all types of employers, including governmental employers. See also IRS FAQ 10 ([IRS COVID-19 FAQs \(https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs#basic\)](https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs#basic)), which confirms that qualified Emergency Paid Sick Leave and qualified Public Health Emergency Leave payments are exempt from the employer portion (6.2%) of the social security tax.

At a minimum, government employers are going to need to document and track these qualified sick and family leave wages separately, in order to: a) not withhold the employer portion of social security (assuming software/system can handle not withholding employer only portion) and/or b) report the correct wages subject to employer portion of social security, most likely on the quarterly Form 941, although the IRS has not yet provided any information on this.

Any regular sick, vacation, or PTO used would be taxed as it normally is taxed because it isn't considered qualified sick and family leave.

[Return to top of page \(#top\)](#)

## Q30. Do I need to keep employees on the city's insurance while they are taking Public Health Emergency Leave or Emergency Paid Sick Leave?

**A30.** Yes, employees are entitled to continued coverage under the employer's group health plan on the same terms as if the employee did not take leave during the period of absence covered by the law. For additional information about health plan continuation under FMLA, please refer to the [League's FMLA memo \(https://www.lmc.org/resources/family-and-medical-leave-act/\)](https://www.lmc.org/resources/family-and-medical-leave-act/).

[Return to top of page \(#top\)](#)

**Q31.** Not necessarily a question, but a comment – there have been so many changes flying around, it's hard to keep everything straight.

**A31.** We completely agree! There is good news; the Department of Labor will observe a temporary period of non-enforcement for the first 30 days, so long as the employer has acted reasonably and in good faith to comply with the Act. [Learn more about the non-enforcement period.](https://www.dol.gov/agencies/whd/field-assistance-bulletins/2020-1) (<https://www.dol.gov/agencies/whd/field-assistance-bulletins/2020-1>)

[Return to top of page \(#top\)](#)

**Q32.** We are a small city. Do we have to comply with the FFCRA?

**A32.** Yes, municipalities must comply with both the Public Health Emergency and Emergency Paid Leaves, regardless of the number of employees they employ, although such employers may exclude employees who are health care providers or emergency responders.

[Return to top of page \(#top\)](#)

**Q33.** What is the definition of “son or daughter” with regard to the FFCRA?

**A33.** The DOL regulations define son or daughter the same way for both Public Health Emergency and Emergency Paid Leaves. This definition includes children under 18 years of age and children age 18 or older who are incapable of self-care because of a mental or physical disability. However, the IRS noted that if employees wish to take leave under Public Health Emergency Leave or Emergency Paid Sick Leave, the employee alone must be providing care to the child (thus, if another family member is present to care of the child, then the employee would not qualify for the leaves under the FFCRA).

Additionally, in the case of a 15- to 17-year old child, the employee must identify “special circumstances” requiring the employee to provide care. This [IRS guidance](https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs#family_leave) ([https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs#family\\_leave](https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs#family_leave)) appears to relate to tax-credits which local governments are not currently eligible for, but it may be a good idea to include on your forms in the event cities are eligible for this credit down the line.

[Return to top of page \(#top\)](#)

**Q34:** I heard something about possible administrative forbearance for public employees who are using the Public Service Loan Forgiveness (PSLF). Where can I direct employees to learn more?

**A34:** The U.S. Department of Education has directed all federal student loan servicers to temporarily stop requiring payments (a forbearance) from any borrower with a federally held loan. If you have a Direct Loan, were on a qualifying repayment plan prior to the suspension, and work full-time for a qualifying employer during the suspension, then you will receive credit toward PSLF for the period of suspension as though you made on-time monthly payments. Servicers of federal student loans were directed to place borrowers in an automatic forbearance. To request a forbearance/stop payment/refund, borrowers should contact their federal student loan servicer online or by phone.

—[Learn more and find out who your federal student loan servicer is](https://studentaid.gov/announcements-events/coronavirus) (<https://studentaid.gov/announcements-events/coronavirus>)

—[Access more COVID-19 News and Resources](https://www.lmc.org/resources/covid-19-resources/) (<https://www.lmc.org/resources/covid-19-resources/>)

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